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Reprinted 3/78

FILED MAR 21 1978

SENATE FILE 2200

By COMMITTEE ON JUDICIARY

Approved 3/22 (p. 630)

Passed Senate, Date 3-28-78 (p. 652) Passed House, Date _____

Vote: Ayes 48 Nays 0 Vote: Ayes _____ Nays _____

Approved June 13, 1978

A BILL FOR

6454 { 1 An Act making technical changes of a corrective nature to the
2 new criminal code.

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

5 SENATE FILE 2200

6 S-5397

7 1 Amend Senate File 2200 as follows:

8 2 1. Page 21, by inserting after line 34 the
9 3 following section:

10 4 "Sec. ____ Chapter one thousand two hundred forty-
11 5 five (1245), Acts of the Sixty-sixth General Assem-
12 6 bly, 1976 Session, chapter four (4), section four
13 7 hundred eighty-nine (489), is amended to read as
14 8 follows:

15 9 SEC. 489. Section six hundred two point sixty-
16 10 two (602.62), Code 1975, is amended to read as follows:

17 11 602.62 PROCEDURE. The criminal procedure before
18 12 judicial magistrates shall be as provided in chapters
19 13 ~~754, 754-^{te}-763, 765, 766, and 768~~ chapter ~~one (1)~~
20 14 two (2), divisions four (IV), six (VI), eight (VIII),
21 15 eleven (XI) of this Act, rules two (2) and thirty-
22 16 two (32) through forty-six (46), rules of criminal
23 17 procedure, and chapter seven hundred fifty-nine (759)
24 18 of the Code. The civil procedure before judicial
25 19 magistrates shall be as provided in chapters 631 and
20 20 648."

21 21 2. Page 22, by inserting after line 2 the following
22 22 section:

23 23 "Sec. ____ Acts of the Sixty-seventh General
24 24 Assembly, 1977 Session, chapter one hundred fifty-
25 25 four (154), is amended by striking section thirty-
26 26 one (31)."

27 27 3. By renumbering sections to conform to this
28 28 amendment.

25 S-5397 FILED Adopted 3/28 (p. 650)
MARCH 23, 1978

BY PHILIP B. HILL

REPRINTED

1 Section 1. Section eighteen point one hundred eighteen
2 (18.118), Code 1977, is amended to read as follows:

3 18.118 PENALTY FOR PRIVATE USE. Any state officer or
4 employee ~~found guilty of~~ violating the rules of the state
5 vehicle dispatcher shall, ~~upon conviction,~~ be ~~finned not to~~
6 ~~exceed one hundred dollars or imprisoned not to exceed thirty~~
7 ~~days in the county jail~~ guilty of a simple misdemeanor.

8 Sec. 2. Section thirty-two point one (32.1), Code 1977,
9 is amended to read as follows:

10 32.1 DESECRATION OF FLAG OR INSIGNIA. Any person who
11 in any manner, for exhibition or display, shall place or cause
12 to be placed, any word, figure, mark, picture, design, drawing,
13 or any advertisement of any nature, upon any flag, standard,
14 color, ensign, shield, or other insignia of the United States,
15 or upon any flag, ensign, great seal, or other insignia of
16 this state, or shall expose or cause to be exposed to public
17 view, any such flag, standard, color, ensign, shield, or other
18 insignia of the United States, or any such flag, ensign, great
19 seal, or other insignia of this state, upon which shall have
20 been printed, painted, or otherwise placed, or to which shall
21 be attached, appended, affixed, or annexed, any word, figure,
22 mark, picture, design, or drawing, or any advertisement of
23 any nature, or who shall expose to public view, manufacture,
24 sell, expose for sale, give away, or have in possession for
25 sale, or to give away, or for use for any purpose any article
26 or substance, being an article of merchandise or a receptacle
27 of merchandise or article or thing for carrying or transporting
28 merchandise, upon which shall have been printed, painted,
29 attached or otherwise placed, a representation of any such
30 flag, standard, color, ensign, shield, or other insignia of
31 the United States, or any such flag, ensign, great seal, or
32 other insignia of this state, to advertise, call attention
33 to, decorate, mark, or distinguish the article or substance
34 on which so placed, or who shall publicly mutilate, deface,
35 defile or defy, trample upon, cast contempt upon, satirize,

1 deride or burlesque, either by words or act, such flag,
 2 standard, color, ensign, shield, or other insignia of the
 3 United States, or flag, ensign, great seal, or other insignia
 4 of this state, or who shall, for any purpose, place such flag,
 5 standard, color, ensign, shield, or other insignia of the
 6 United States, or flag, ensign, great seal, or other insignia
 7 of this state, upon the ground or where the same may be trod
 8 upon, shall be deemed guilty of a simple misdemeanor and shall
 9 ~~be punished by a fine not exceeding one hundred dollars or~~
 10 ~~by imprisonment for not more than thirty days and shall also~~
 11 ~~forfeit a penalty of fifty dollars for each such offense,~~
 12 ~~to be recovered, with costs, in a civil action or suit in~~
 13 ~~any court having jurisdiction.~~

14 Sec. 3. Section forty-three point one hundred nineteen
 15 (43.119), Code 1977, is amended to read as follows:

16 43.119 MISCONDUCT. Any party ~~committeeman~~ committee
 17 member or any primary election officer or public officer upon
 18 whom a duty is imposed by this chapter or by chapters herein
 19 made applicable, who shall willfully neglect to perform any
 20 such duty, or who shall willfully perform it in such a way
 21 as to hinder the objects thereof, or shall disclose to anyone,
 22 except as may be ordered by any court of justice, the manner
 23 in which a ballot may have been voted, shall be ~~punished by~~
 24 ~~a fine of not less than one hundred dollars nor more than~~
 25 ~~one thousand dollars, or by imprisonment in the county jail~~
 26 ~~for not to exceed one year, or by both such fine and~~
 27 ~~imprisonment~~ guilty of a serious misdemeanor.

28 Sec. 4. Section eighty-eight point fourteen (88.14),
 29 subsections five (5), six (6), and seven (7), Code 1977
 30 Supplement, is amended to read as follows:

31 5. WILLFUL VIOLATIONS CAUSING DEATH. Any employer who
 32 willfully violates any standard, rule, or order promulgated
 33 pursuant to section 38.5, or ~~of~~ any regulations prescribed
 34 pursuant to this chapter, and that violation caused death
 35 to any employee, shall, upon conviction, be ~~punished by a~~

~~1 fine-of-not-more-than-ten-thousand-dollars-or-by-imprisonment~~
~~2 for-not-more-than-six-months-or-by-both-such-fine-and-imprisen-~~
~~3 ment~~ guilty of a serious misdemeanor; except that if the con-
~~4 viction is for a violation committed after a first conviction~~
~~5 of such person, punishment-shall-be-by-a-fine-of-not-more~~
~~6 than-twenty-thousand-dollars-or-by-imprisonment-of-not-more~~
~~7 than-one-year,-or-by-both-such-fine-and-imprisonment~~ the
~~8 person shall be guilty of an aggravated misdemeanor.~~

9 6. ADVANCE NOTICE OF INSPECTIONS. Any person who gives
10 advance notice of any inspection to be conducted under this
11 chapter, without authority from the commissioner or ~~his~~ the
12 commissioner's designees, shall, upon conviction, be ~~punished~~
13 ~~by-a-fine-of-not-more-than-one-thousand-dollars-or-by~~
14 ~~imprisonment-for-not-more-than-six-months,-or-by-both-such~~
15 ~~fine-and-imprisonment~~ guilty of a serious misdemeanor.

16 7. FILING FALSE DOCUMENTS. Whoever knowingly makes any
17 false statement, representation, or certification in any ap-
18 plication, record, report, plan, or other document filed or
19 required to be maintained pursuant to this chapter shall,
20 upon conviction, be ~~punished-by-a-fine-of-not-more-than-ten~~
21 ~~thousand-dollars,-or-by-imprisonment-of-not-more-than-six~~
22 ~~months,-or-by-both-such-fine-and-imprisonment~~ guilty of a
23 serious misdemeanor.

24 Sec. 5. Section eighty-eight A point ten (88A.10), subsec-
25 tion one (1), Code 1977 Supplement, is amended to read as
26 follows:

27 1. Any person who operates an amusement device or ride,
28 concession booth or related electrical equipment at a carnival
29 or fair without having obtained a permit from the commissioner
30 or who violates any order or rule issued by the commissioner
31 under this chapter is guilty of a serious misdemeanor and,
32 ~~upon-conviction,-shall-be-subject-to-imprisonment-in-the~~
33 ~~county-jail-for-not-more-than-one-year,-or-be-subject-to-a~~
34 ~~fine-not-to-exceed-ten-thousand-dollars,-or-be-subject-to~~
35 ~~both-such-imprisonment-and-fine.~~

1 Sec. 6. Section one hundred twenty-three point forty-six
2 (123.46), Code 1977, is amended to read as follows:

3 123.46 CONSUMPTION IN PUBLIC PLACES--INTOXICATION.

4 It is unlawful for any person to use or consume alcoholic
5 liquors or beer upon the public streets or highways, or
6 alcoholic liquors in any public place, except premises covered
7 by a liquor control license, or to possess or consume alcoholic
8 liquors or beer on any public school property or while
9 attending any public or private school related functions,
10 and no person shall be intoxicated nor simulate intoxication
11 in a public place. As used in this section "school" means
12 a school or that portion thereof, which provides teaching
13 for any grade from kindergarten through grade twelve. Any
14 person violating any provisions of this section shall be fined
15 ~~not-to-exceed-one-hundred-dollars-or-sentenced-not-to-exceed~~
16 ~~thirty-days-in-the-county-jail~~ guilty of a simple misdemeanor.

17 Sec. 7. Section one hundred fifty-five point thirty
18 (155.30), unnumbered paragraph one (1), Code 1977 Supplement,
19 is amended to read as follows:

20 Any person who violates a provision of section one hun-
21 dred fifty-five point twenty-nine (155.29) of the Code or
22 who sells or offers for sale, gives away, or administers to
23 another person any prescription drug shall be ~~deemed-guilty~~
24 ~~of-violating-the-provisions-of-this-section-or-who-violates~~
25 ~~any-provisions-of-section-155-29-is~~ guilty of a public of-
26 fense and punished as provided below.

27 Sec. 8. Section one hundred sixty-seven point nineteen
28 (167.19), Code 1977 Supplement, is amended to read as follows:
29 167.19 PENALTY.

30 The violation of any of the provisions of this chapter
31 or any rule adopted thereunder by the department shall be
32 ~~guilty-of~~ a simple misdemeanor.

33 Sec. 9. Section one hundred seventy-two C point eleven
34 (172C.11), Code 1977, is amended to read as follows:

35 172C.11 PENALTIES--REPORTS. Willful failure to file a

1 required report, or the willful filing of false information,
2 is a ~~public offense--A person found guilty of violating~~
3 ~~this section shall be subject to a fine not to exceed one~~
4 ~~thousand dollars~~ serious misdemeanor.

5 Sec. 10. Section one hundred eighty-nine A point seven-
6 teen (189A.17), subsection five (5), paragraphs a, b, and
7 unnumbered paragraph one (1) of paragraph d, Code 1977, is
8 amended to read as follows:

9 a. Any person who neglects or refuses to attend and testify
10 or to answer any lawful inquiry, or to produce documentary
11 evidence, if it is in his or her power to do so, in obedience
12 to the subpoena or lawful requirement of the secretary shall
13 be guilty of ~~an offense and upon conviction thereof by a court~~
14 ~~of competent jurisdiction shall be punished by a fine of not~~
15 ~~less than one thousand dollars nor more than five thousand~~
16 ~~dollars, or by imprisonment in the county jail for not more~~
17 ~~than one year, or by both such fine and imprisonment~~ a serious
18 misdemeanor.

19 b. Any person who willfully makes, or causes to be made,
20 any false entry or statement of fact in any report required
21 to be made under this chapter, or who willfully makes, or
22 causes to be made, any false entry in any account, record,
23 or memorandum kept by any person subject to this chapter,
24 or who willfully neglects or fails to make or to cause to
25 be made, full, true, and correct entries in such accounts,
26 records, or memoranda, of all facts and transactions pertaining
27 to the business of such person, or who willfully removes
28 himself or herself from the jurisdiction of this state, or
29 willfully mutilates, alters, or by any other means falsifies
30 any documentary evidence of any person subject to this chapter
31 or who willfully refuses to submit to the secretary or to
32 any of ~~his~~ the secretary's authorized agents, for the purpose
33 of inspection and taking copies, any documentary evidence
34 of any person subject to this chapter in his or her possession
35 or within his or her control, shall be deemed guilty of an

1 ~~offense and shall be subject, upon conviction in any court~~
 2 ~~of competent jurisdiction, to a fine of not less than one~~
 3 ~~thousand dollars nor more than five thousand dollars, or to~~
 4 ~~imprisonment in the county jail or the penitentiary for a~~
 5 ~~term of not more than three years, or to both such fine and~~
 6 ~~imprisonment~~ aggravated misdemeanor.

7 Any officer or employee of this state who makes public
 8 any information obtained by the secretary, without ~~his~~ the
 9 secretary's authority, unless directed by a court, or uses
 10 any such information to his or her advantage, shall be deemed
 11 guilty of a serious misdemeanor, ~~and upon conviction thereof~~
 12 ~~shall be punished by a fine not exceeding five thousand~~
 13 ~~dollars, or by imprisonment in the county jail not exceeding~~
 14 ~~one year, or by both such fine and imprisonment.~~

15 Sec. 11. Section one hundred ninety-one point three
 16 (191.3), unnumbered paragraph three (3), Code 1977 Supplement,
 17 is amended to read as follows:

18 Any person violating any provision of this section shall
 19 be guilty of a simple misdemeanor, and the suspension person
 20 shall have all licenses issued by the state for the public
 21 eating place in which a violation occurred suspended for one
 22 ~~year of all licenses issued by the state of Iowa for the~~
 23 ~~public eating place in which said violation occurred.~~

24 Sec. 12. Section one hundred ninety-six point fourteen
 25 (196.14), Code 1977, is amended to read as follows:

26 196.14 PENALTY. Any person ~~found guilty of any violation~~
 27 who violates a provision of this chapter shall ~~upon conviction~~
 28 ~~for the first offense, be fined twenty-five dollars, for the~~
 29 ~~second offense, one hundred dollars, and for the third and~~
 30 ~~subsequent offenses, two hundred dollars~~ be guilty of a simple
 31 misdemeanor. In addition ~~to such fines~~, if the offender is
 32 a handler or a retailer, the court for the third offense shall
 33 suspend his or her license for thirty days; ~~and for the fourth~~
 34 ~~and any subsequent offense, such license shall be revoked~~
 35 for a period of one year.

1 Sec. 13. Section one hundred ninety-eight point thir-
2 teen (198.13), subsections four (4) and six (6), Code 1977
3 Supplement, is amended to read as follows:

4 4. The secretary may apply for and the court ~~to~~ may grant
5 a temporary or permanent injunction restraining any person
6 from violating or continuing to violate any of the provisions
7 of this chapter or any rule promulgated under the chapter
8 notwithstanding the existence of other remedies of law. ~~Said~~
9 If granted, the injunction ~~to~~ shall be issued without bond.

10 6. Any person who uses to his or her own advantage, or
11 reveals to other than the secretary, or officers of the
12 department or to the courts when relevant in any judicial
13 proceedings, any information acquired under the authority
14 of this chapter, concerning any method, records, formulations
15 or processes which as a trade secret is entitled to protection,
16 is guilty of a serious misdemeanor ~~and shall on conviction~~
17 ~~thereof be fined not less than one hundred dollars or~~
18 ~~imprisoned for not less than six months, or both, provided~~
19 ~~that this.~~ This prohibition shall not be deemed as prohibiting
20 the secretary, or ~~his~~ the secretary's duly authorized agent,
21 from exchanging information of a regulatory nature with
22 appointed officials of the United States government, or of
23 other states, who are similarly prohibited by law from
24 revealing this information.

25 Sec. 14. Section three hundred twenty-one point two hun-
26 dred sixty (321.260), unnumbered paragraph one (1), Code 1977,
27 is amended to read as follows:

28 Any person who willfully and intentionally, without lawful
29 authority, attempts to or in fact alters, defaces, injures,
30 knocks down, or removes any official traffic-control device,
31 any authorized warning sign or signal or barricade, whether
32 temporary or permanent, any railroad sign or signal, any
33 inscription, shield or insignia on any of such devices, signs,
34 signals, or barricades, or any other part thereof, shall,
35 upon conviction, be ~~punished by imprisonment in the county~~

1 ~~jail-for-not-more-than-six-months,-or-fined-not-more-than~~
2 ~~five-hundred-dollars,-or-by-beth-such-fine-and-imprisonment~~
3 guilty of a serious misdemeanor.

4 Sec. 15. Section three hundred twenty-eight point forty-
5 one (328.41), unnumbered paragraph three (3), Code 1977
6 Supplement, is amended to read as follows:

7 Any person who operates any aircraft, while in an
8 intoxicated condition or under the influence of narcotic drugs
9 in violation of this section, shall, upon conviction or a
10 plea of guilty, be punished guilty of a serious misdemeanor
11 ~~for the first offense by-a-fine-of-not-less-than-three-hundred~~
12 ~~dollars-nor-more-than-one-thousand-dollars,-or-by-imprisonment~~
13 ~~in-the-county-jail-for-a-period-not-to-exceed-one-year,-or~~
14 ~~by-beth-such-fine-and-imprisonment,~~, be guilty of an aggravated
15 misdemeanor for the second offense ~~by-a-fine-of-not-less-than~~
16 ~~five-hundred-dollars,-nor-more-than-one-thousand-dollars,~~
17 ~~or-by-imprisonment-in-the-penitentiary-for-a-period-of-not~~
18 ~~to-exceed-one-year,-or-by-beth-such-fine-and-imprisonment,~~,
19 and be guilty of a class D felony for a third offense ~~by~~
20 ~~imprisonment-in-the-penitentiary-for-a-period-not-to-exceed~~
21 three-years.

22 Sec. 16. Section four hundred fifty-two point five (452.5),
23 Code 1977 Supplement, is amended to read as follows:

24 452.5 LOANS BY TREASURER OF STATE.

25 The treasurer of state shall be guilty of a serious mis-
26 demeanor for ~~a-like-violation~~ loaning out, or in any manner
27 using for private purposes, state, county, or other funds
28 in the treasurer's hands.

29 Sec. 17. Section five hundred seven A point ten (507A.10),
30 Code 1977 Supplement, is amended to read as follows:

31 507A.10 PENALTIES.

32 Any unauthorized foreign or alien insurer who does any
33 unauthorized act of an insurance business as set forth in
34 this chapter shall be guilty of a ~~fraudulent-practice~~ serious
35 misdemeanor.

1 Sec. 18. Section five hundred fifteen point one hundred
2 twenty (515.120), Code 1977 Supplement, is amended to read
3 as follows:

4 515.120 VIOLATIONS.

5 Any officer, manager, or agent of any insurance company
6 or association who, with knowledge that it is doing business
7 in an unlawful manner, or is insolvent, solicits insurance
8 with said company or association, or receives applications
9 therefor, or does any other act or thing towards procuring
10 or receiving any new business for such company or association,
11 shall be guilty of a ~~fraudulent-practice~~ serious misdemeanor.

12 Sec. 19. Section five hundred thirty-seven point five
13 thousand three hundred one (537.5301), subsection four (4),
14 Code 1977 Supplement, is amended to read as follows:

15 4. A person who willfully and knowingly violates the
16 provisions of section 537.7103 is guilty of a serious mis-
17 demeanor ~~and-upon-conviction-may-be-sentenced-to-pay-a-fine~~
18 ~~not-exceeding-one-thousand-dollars~~.

19 Sec. 20. Section six hundred point eight (600.8), subsec-
20 tion one (1), paragraph b, unnumbered paragraph one (1), Code
21 1977 Supplement, is amended to read as follows:

22 A postplacement investigation and a report of this in-
23 vestigation ~~and-a-report-of-this-investigation~~ shall:

24 Sec. 21. Section six hundred two point sixty-two (602.62),
25 Code 1977 Supplement, is amended to read as follows:

26 602.62 PROCEDURE.

27 The criminal procedure before judicial magistrates shall
28 be as provided in chapters 804, 806, 808, 811, ~~and~~ 820, and
29 eight hundred twenty-one (821) of the Code Supplement, and
30 rules 2 and 32 through 46, rules of criminal procedure. The
31 civil procedure before judicial magistrates shall be as
32 provided in chapters 631 and 648.

5595-

33 Sec. 22. Section six hundred ninety-one point nine (691.9),
34 subsection one (1), Code 1977 Supplement, is amended to read
35 as follows:

1 1. Ammunition and firearms which are stolen or embezzled
2 or confiscated pursuant to a valid arrest or search warrant
3 and for which lawful possession is not established or for
4 which lawful title cannot be ascertained pursuant to ~~chapters~~
5 ~~645-and~~ chapter 809 shall be forwarded to the state
6 criminalistics laboratory for deposit by the law enforcement
7 agency having possession of such items. Ammunition and
8 firearms which were used in the perpetration or attempted
9 perpetration of a criminal offense and are owned by the
10 perpetrator of such offense shall be forfeited to the state,
11 and shall be deposited with the state criminalistics laboratory
12 if no longer required in a criminal action for evidentiary
13 purposes. Ammunition and firearms forfeited shall become
14 the property of the state.

15 Sec. 23. Section six hundred ninety-two point seventeen
16 (692.17), Code 1977 Supplement, is amended to read as follows:
17 692.17 EXCLUSIONS.

18 Criminal history data in a computer data storage system
19 ~~does~~ shall not include arrest or disposition data after the
20 person has been acquitted or the charges dismissed.

21 Sec. 24. Section seven hundred two point seventeen
22 (702.17), Code 1977 Supplement, is amended to read as follows:
23 702.17 SEX ACT.

24 The term "sex act" or "sexual activity" means any sexual
25 contact between two or more persons, by penetration of the
26 penis into the vagina or anus, by contact between the mouth
27 and genitalia or by contact between the genitalia of one
28 person and the genitalia or anus of another person or by use
29 of ~~artificial~~ artificial sexual organs or substitutes therefore
30 in contact with the genitalia or anus.

31 Sec. 25. Section seven hundred three point five (703.5),
32 subsection two (2), unnumbered paragraph two (2), Code 1977
33 Supplement, is amended to read as follows:

34 "High managerial agent" means an officer of the corpora-
35 tion, partner, or other agent in a position of comparable

1 authority with respect to the formulation of policy or the
2 ~~asupervision~~ supervision in a managerial capacity of subor-
3 dinate employees.

4 Sec. 26. Section seven hundred four point twelve (704.12),
5 Code 1977 Supplement, is amended to read as follows:

6 704.12 USE OF FORCE IN MAKING AN ARREST.

7 A peace officer or other person making an arrest or securing
8 an arrested person may use such force as is permitted by
9 sections ~~804.11 through 804.16~~ eight hundred four point eight
10 (804.8), eight hundred four point ten (804.10), eight hun-
11 dred four point thirteen (804.13), and eight hundred four
12 point fifteen (804.15) of the Code Supplement.

13 Sec. 27. Section seven hundred fourteen point twenty-one
14 (714.21), Code 1977 Supplement, is amended to read as follows:

15 714.21 PENALTY.

16 Violation of any of the provisions of sections 714.17,
17 714.18, or 714.20* shall be ~~punishable upon conviction by~~
18 ~~a fine not exceeding five hundred dollars or six months in~~
19 ~~jail, or both~~ a serious misdemeanor.

20 Sec. 28. Section seven hundred twenty-one point six
21 (721.6), Code 1977 Supplement, is amended to read as follows:

22 721.6 EXCEPTION TO SECTIONS 721.3 TO 721.5.

23 The provisions of sections 721.3 to 721.5, inclusive, shall
24 not be construed as prohibiting any such officer or employee
25 who is a candidate for political office to engage in ~~campaign~~
26 campaigning at any time or at any place for himself or herself.

27 Sec. 29. Section seven hundred twenty-five point ten
28 (725.10), Code 1977 Supplement, is amended to read as follows:

29 725.10 POOL SELLING--PLACES USED FOR.

30 Any person who records or registers bets or wagers or sells
31 pools upon the result of any trial or contest of skill, speed,
32 or power of endurance of man or beast, or upon the result
33 of any political nomination or election, and any person who
34 keeps a place for the purpose of doing any such thing, and
35 any owner, lessee, or occupant of any premises, who knowingly

1 permits the same, or any part thereof, to be used for any
2 such purpose, and anyone who, as custodian or depositary
3 thereof, for hire or reward, receives any money, property,
4 or thing of value staked, wagered, or bet upon any such result,
5 shall be ~~fined-not-exceeding-one-thousand-dollars,-or~~
6 ~~imprisoned-in-the-county-jail-not-exceeding-one-year,-or-both~~
7 guilty of a serious misdemeanor.

8 Sec. 30. Section seven hundred twenty-five point eleven
9 (725.11), Code 1977 Supplement, is amended to read as follows:
10 725.11 BULLFIGHTS AND OTHER CONTESTS.

11 If any person keep or use, or in any way be connected with,
12 or be interested in the management of, or receive money for
13 the admission of any person to, any place kept or used for
14 the purpose of fighting or baiting any bull, bear, dog, cock,
15 or other creature, or engage in, aid, abet, encourage, or
16 assist in any bull, bear, dog, or cock fight, or a fight
17 between any other creatures, ~~he~~ the person shall be guilty
18 of a serious misdemeanor.

19 Sec. 31. Section seven hundred twenty-five point fourteen
20 (725.14), Code 1977 Supplement, is amended to read as follows:
21 725.14 PUNISHMENT FOR SECTION 725.13.

22 A violation of the provisions of section 725.13 shall be
23 ~~punished-by-a-fine-not-less-than-five-nor-exceeding-one-hundred~~
24 ~~dollars,-or-imprisonment-in-the-county-jail-not-exceeding~~
25 ~~thirty-days~~ a simple misdemeanor.

26 Sec. 32. Section seven hundred twenty-five point sixteen
27 (725.16), Code 1977 Supplement, is amended to read as follows:
28 725.16 GAMBLING PENALTY.

29 A person who commits an offense declared in ~~sections-725-5~~
30 ~~through-725-18-or~~ chapter 99B to be a misdemeanor shall be
31 guilty of a serious misdemeanor.

32 Sec. 33. Section seven hundred twenty-eight point four
33 (728.4), Code 1977 Supplement, is amended to read as follows:
34 728.4 SALE OF HARD CORE PORNOGRAPHY.

35 Any person who knowingly sells or offers for sale material

1 depicting a sex act involving sado-masochistic abuse, excretory
2 functions, a child, or bestiality which the average adult
3 taking the material as a whole in applying contemporary
4 community standards would find that it appeals to the prurient
5 interest and is patently offensive; and the material, taken
6 as a whole, lacks serious literary, scientific, political,
7 or artistic value shall, upon conviction be guilty of a simple
8 misdemeanor. Charges under this section may only be brought
9 by a county attorney, or by the attorney general, ~~or a grand~~
10 jury.

11 Sec. 34. Section seven hundred twenty-nine point one
12 (729.1), Code 1977 Supplement, is amended to read as follows:
13 729.1 RELIGIOUS TEST.

14 Any violation of section 4, Article I of the Constitution
15 of Iowa is hereby declared to be a serious misdemeanor.

16 Sec. 35. Section seven hundred twenty-nine point three
17 (729.3), Code 1977 Supplement, is amended to read as follows:
18 729.3 PENALTY.

19 Any person, agency, bureau, corporation, or association
20 that violates provisions of sections 729.1 and 729.2 shall
21 be guilty of a simple misdemeanor ~~and upon conviction be fined~~
22 ~~not less than twenty-five dollars nor more than one hundred~~
23 ~~dollars, or imprisoned not more than thirty days, or by both~~
24 ~~such fine and imprisonment.~~

25 Sec. 36. Section seven hundred twenty-nine point four
26 (729.4), subsection three (3), Code 1977 Supplement, is amended
27 to read as follows:

28 3. Any person, employer, labor union or organization or
29 officer of a labor union or organization convicted of a
30 violation of subsections 1 or 2 shall be ~~punished by a fine~~
31 ~~not to exceed one hundred dollars or imprisonment in the~~
32 ~~county jail not to exceed thirty days~~ guilty of a simple
33 misdemeanor.

34 Sec. 37. Section seven hundred thirty point one (730.1),
35 Code 1977 Supplement, is amended to read as follows:

1 730.1 PUNISHMENT.

2 If any person, agent, company, or corporation, after having
3 discharged any employee from ~~his-or-its~~ service, shall prevent
4 or attempt to prevent, by word or writing of any kind, such
5 discharged employee from obtaining employment with any other
6 person, company, or corporation, except by furnishing in
7 writing on request a truthful statement as to the cause of
8 ~~his or her~~ discharge, such person, agent, company, or
9 corporation shall be ~~punished-by-a-fine-not-exceeding-five~~
10 ~~hundred-ner-less-than-one-hundred-dollars,~~ guilty of a serious
11 misdemeanor and shall be liable for all damages sustained
12 by any such person.

13 Sec. 38. Section seven hundred thirty point three (730.3),
14 Code 1977 Supplement, is amended to read as follows:

15 730.3 FALSE CHARGES CONCERNING HONESTY.

16 Every person who shall by any letter, mark, sign, or
17 designation whatever, or by any verbal statement, falsely
18 and without probable cause, report to any railroad or any
19 other company or corporation, or to any person or firm, or
20 to any of the officers, servants, agents, or employees of
21 any such corporation, person, or firm, that any conductor,
22 brakeman, engineer, fireman, station agent, or any employee
23 of such railroad company, corporation, person, or firm has
24 received any money or thing of value for the transportation
25 of persons or property or for other service for which he has
26 not accounted to such corporation, person, or firm, or shall
27 falsely and without probable cause report that any conductor,
28 brakeman, engineer, fireman, station agent, or other employee
29 of any railroad company, corporation, firm, or person, ne-
30 glected, failed, or refused to collect any money or ticket
31 for transportation of persons or property or other service
32 when it was their duty so to do, shall, on conviction, be
33 ~~adjudged guilty of a simple misdemeanor,-and-upon-convictien~~
34 ~~thereof-shall-be-fined-in-a-sum-not-exceeding-one-hundred~~
35 ~~dollars-or-be-imprisoned-in-the-county-jail-for-a-period-not~~

1 ~~exceeding-thirty-days.~~

2 Sec. 39. Section seven hundred thirty-one point six
3 (731.6), Code 1977 Supplement, is amended to read as follows:

4 731.6 PENALTY.

5 Any person, firm, association, labor organization, or
6 corporation or any director, officer, representative, agent
7 or member thereof, who shall violate any of the provisions
8 of this chapter or who shall aid and abet in such violation
9 shall be ~~deemed~~ guilty of a serious misdemeanor.

10 Sec. 40. Section seven hundred thirty-two point four
11 (732.4), Code 1977 Supplement, is amended to read as follows:

12 732.4 PENALTY.

13 Any person, or any labor union, labor association or labor
14 organization or any officer, representative, agent or member
15 thereof who shall violate any of the provisions of this chapter
16 shall be ~~deemed~~ guilty of a simple misdemeanor ~~and shall,~~
17 ~~upon conviction thereof, be punished by a fine of not more~~
18 ~~than one hundred dollars or by imprisonment in the county~~
19 ~~jail for a period of not more than thirty days.~~

20 Sec. 41. Section eight hundred one point four (801.4),
21 subsection eleven (11), Code 1977 Supplement, is amended to
22 read as follows:

23 11. "Complaint" means a statement in writing, under oath
24 or affirmation, made before a magistrate or district court
25 clerk or clerk's deputy as the case may be, of the commission
26 of a public offense, and accusing someone thereof. A com-
27 plaint shall be substantially in the form provided in the
28 Iowa rules of criminal procedure.

29 Sec. 42. Section eight hundred four point one (804.1),
30 unnumbered paragraph two (2), Code 1977 Supplement, is amended
31 to read as follows:

32 Whenever the complaint charges a simple misdemeanor, the
33 magistrate may in his or her discretion issue a citation
34 instead of a warrant of arrest. The citation shall set forth
35 substantially the nature of the offense and shall command

1 the person against whom the complaint was made to appear
2 before the magistrate issuing the citation at a time and place
3 stated therein.

4 Sec. 43. Section eight hundred four point twenty-three
5 (804.23), unnumbered paragraph one (1), Code 1977 Supplement,
6 is amended to read as follows:

7 The officer shall, without unnecessary delay, take the
8 person arrested pursuant to section ~~804-8~~ eight hundred four
9 point eleven (804.11) of the Code Supplement before the nearest
10 or most accessible magistrate to the place where the arrest
11 occurred.

12 Sec. 44. Section eight hundred eleven point one (811.1),
13 Code 1977 Supplement, is amended to read as follows:

14 811.1 BAILABLE AND NONBAILABLE OFFENSES.

15 All defendants are bailable both before and after
16 conviction, by sufficient surety, or subject to release upon
17 condition or on their own recognizance, except that a defendant
18 convicted of a class A felony shall not be admitted to bail
19 while appealing such conviction ~~or seeking post-conviction~~
20 relief.

21 Sec. 45. Section eight hundred eleven point five (811.5),
22 Code 1977 Supplement, is amended to read as follows:

23 811.5 BAIL ON APPEAL.

24 After conviction, upon appeal to the ~~supreme~~ appellate
25 court, the defendant must be admitted to bail, if it be from
26 the judgment imposing a fine, upon the undertaking of bail
27 that the defendant will, in all respects, abide the orders
28 and the judgment of the ~~supreme~~ appellate court upon appeal;
29 if from a judgment of imprisonment, except as provided in
30 section 811.1 upon the undertaking of bail that the defendant
31 will surrender himself or herself in execution of the judgment
32 and direction of the ~~supreme~~ appellate court, and in all
33 respects abide the orders and judgment of the ~~supreme~~ appellate
34 court upon the appeal. Such bail may be taken, either by
35 the court where the judgment was rendered, or the district

1 court of the county in which the defendant is imprisoned,
2 or by the supreme appellate court, or a judge or clerk of
3 any of such courts. Provided, that in lieu of bail,ailable
4 defendants as described herein may be released in accordance
5 with the provisions of section 811.2.

6 Sec. 46. Section eight hundred fourteen point five (814.5),
7 subsection two (2), paragraph a, Code 1977 Supplement, is
8 amended to read as follows:

9 a. an order ~~quashing~~ dismissing an arrest or search
10 warrant.

11 Sec. 47. Section eight hundred twenty point eleven
12 (820.11), Code 1977 Supplement, is amended to read as follows:
13 820.11 PENALTY FOR WILLFUL DISOBEDIENCE.

14 Any officer who shall deliver to the agent for extradi-
15 tion of the demanding state a person in ~~his~~ the officer's
16 custody under the governor's warrant, in willful disobedience
17 to the last section, shall be guilty of a simple misdemeanor
18 ~~and, on conviction, shall be fined not more than one hundred~~
19 ~~dollars or be imprisoned not more than thirty days.~~

20 Sec. 48. Section eight hundred twenty point seventeen
21 (820.17), Code 1977 Supplement, is amended to read as follows:
22 820.17 DISCHARGE OR RECOMMITMENT.

23 If the accused is not arrested under warrant of the governor
24 by the expiration of the time specified in the warrant or
25 bond, a judge or magistrate may discharge ~~him or may recommit~~
26 him or recommit the accused for a further period not to exceed
27 sixty days, or a judge or magistrate ~~judge~~ may again take
28 ⁵⁴¹⁵ bail for his or her appearance and surrender, as provided
29 in section 820.16, but within a period not to exceed sixty
30 days after the date of such new bond.

31 Sec. 49. Section eight hundred twenty-one point four
32 (821.4), Code 1977 Supplement, is amended to read as follows:
33 821.4 HABITUAL CRIMINALS.

34 Nothing in this chapter or in the agreement on detainers
35 shall be construed to require the application of ~~chapter-747~~

1 section nine hundred two point eight (902.8) of the Code
2 Supplement to any person on account of any conviction had
3 in a proceeding brought to final disposition by reason of
4 the use of this agreement.

5 Sec. 50. Section nine hundred one point two (901.2),
6 unnumbered paragraph two (2), Code 1977 Supplement, is amended
7 to read as follows:

8 The court may withhold execution of any judgment or sen-
9 tence for such time as shall be reasonably necessary for an
10 investigation with respect to deferment of judgment, defer-
11 ment of sentence, or suspension of sentence and probation.
12 The investigation shall be made by the judicial district
13 department of correctional services.

14 Sec. 51. Section nine hundred one point four (901.4),
15 Code 1977 Supplement, is amended to read as follows:

16 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

17 The court may, in its discretion, make the presentence
18 investigation report or parts of it available to the defendant,
19 or the court may make the report or parts of it available
20 while concealing the identity of the person who provided
21 confidential information. The report of any medical
22 examination or psychiatric evaluation shall be made available
23 to the attorney for the state and to the defendant upon
24 request. Such reports shall be part of the record but shall
25 be sealed and opened only on order of the court. In any case
26 where the defendant is committed to the custody of the division
27 of adult corrections and is not a class A felon, a copy of
28 the presentence investigation report shall be sent to the
29 director at the time of commitment.

30 Sec. 52. Section nine hundred one point five (901.5),
31 Code 1977 Supplement, is amended by adding the following new
32 subsections:

33 NEW SUBSECTION. If authorized by section nine hundred
34 seven point three (907.3) of the Code Supplement, the court
35 may defer the sentence and assign the defendant to the judicial

1 district department of correctional services.

2 NEW SUBSECTION. The court may pronounce judgment and
3 sentence the defendant to confinement and then reconsider
4 the sentence as provided by section nine hundred two point
5 four (902.4) or nine hundred three point two (903.2) of the
6 Code Supplement.

7 Sec. 53. Section nine hundred two point one (902.1), Code
8 1977 Supplement, is amended to read as follows:

9 902.1 CLASS A FELONY.

10 Upon a plea of guilty, a verdict of guilty, or a special
11 verdict upon which a judgment of conviction of a class A
12 felony may be rendered, the court shall enter a judgment of
13 conviction and shall commit the defendant into the custody
14 of the director of the division of adult corrections for the
5415-15 rest of his or her* life. Nothing in the Iowa corrections
16 code pertaining to deferred judgment, deferred sentence,
17 suspended sentence, or probation reconsideration of sentence
18 shall apply to a class A felony, and no person convicted of
19 a class A felony shall be released on parole unless the
20 governor commutes the sentence to a term of years.

21 Sec. 54. Section nine hundred two point six (902.6), Code
22 1977 Supplement, is amended to read as follows:

23 902.6 RELEASE.

24 A person who has been committed to the custody of the
25 director of the division of adult corrections shall remain
5415-26 in such custody until his or her release by the order of the
27 board of parole, in accordance with the law governing paroles,
28 by order of the judge after reconsideration of a felon's
29 sentence pursuant to section nine hundred two point four
30 (902.4) of the Code Supplement, or until the maximum term
31 of the person's confinement, as fixed by law, has been
32 completed.

33 Sec. 55. Section nine hundred seven point three (907.3),
34 unnumbered paragraph one (1), Code 1977 Supplement, is amended
35 to read as follows:

1 Pursuant to section 901.5, the trial court may, upon a
2 plea of guilty, a verdict of guilty, or a special verdict
3 upon which a judgment of conviction may be rendered, exercise
4 ~~either~~ any of the options contained in subsections 1 and 2
5 of this section. However, this section shall not apply to
6 a forcible felony or a violation of section 204.401, subsection
7 1 or 2, to which section 204.409, subsection 2 is not
8 applicable and which is not proved to be an accommodation
9 offense under section 204.410.

10 Sec. 56. Section nine hundred seven point five (907.5),
11 Code 1977 Supplement, is amended to read as follows:

12 907.5 STANDARDS FOR RELEASE ON PROBATION--WRITTEN REASONS.

13 Before deferring judgment, deferring sentence, or suspending
14 sentence, the court first shall determine which option, if
15 available, will provide maximum opportunity for the
16 rehabilitation of the defendant and protection of the community
17 from further offenses by the defendant and others. In making
18 this determination the court shall consider the age of the
19 defendant; the defendant's prior record of convictions and
20 prior record of deferments of judgment if any; the defendant's
21 employment circumstances; the defendant's family circumstances;
22 the nature of the offense committed; and such other factors
23 as are appropriate. The court shall file a specific written
24 statement of its reasons for and the facts supporting its
25 decision to defer judgment, to defer sentence, or to suspend
26 sentence, and its decision on the length of probation.

27 Sec. 57. Section nine hundred seven point seven (907.7),
28 unnumbered paragraph two (2), Code 1977 Supplement, is amended
29 to read as follows:

30 The length of the probation shall not be less than one
31 year if the offense is a misdemeanor and shall not be less
32 than two years if the offense is a felony. However, the court
33 may subsequently reduce the length of the probation if the
34 court determines that the purposes of probation have been
35 fulfilled. The purposes of probation are to provide maximum

1 opportunity for the rehabilitation of the defendant and to
2 protect the community from further offenses by the defendant
3 and others.

4 Sec. 58. Section nine hundred seven point twelve (907.12),
5 subsection one (1), paragraph c, and subsection three (3),
6 Code 1977 Supplement, is amended to read as follows:

7 c. "Criminal activities" includes any crime for which
8 there is a plea of guilty, verdict of guilty, or special
9 verdict upon which a judgment of conviction may be rendered
10 and any other crime committed after July 1, 1972 which is
11 admitted or not contested by the defendant, whether or not
12 prosecuted. However, "criminal activities" does not include
13 ~~misdemeanors~~ public offenses under chapter 321.

14 3. If the trial court exercises ~~either~~ any of the
15 sentencing options under section 907.3, the court shall require
16 as a condition of probation that the defendant, in cooperation
17 with the probation officer assigned to the defendant, promptly
18 prepare a plan of restitution, including a specific amount
19 of restitution to each victim and a schedule of restitution
20 payments. If the defendant is presently unable to make any
21 restitution but there is a reasonable possibility that the
22 defendant may be able to do so at some time during his or
23 her* probation period, the plan of restitution shall also
24 state the conditions under which or the event after which
25 the defendant will make restitution. If the defendant believes
26 that he or she will not be able to make any restitution, the
27 defendant shall so state and shall specify the reasons.
28 If the defendant believes that no person suffered pecuniary
29 damages as a result of the defendant's criminal activities,
30 he or she shall so state.

31 Sec. 59. Section one hundred nine point one hundred
32 nineteen (109.119), Code 1977, is repealed.

33 Sec. 60. Section two hundred forty-five point twenty-one
34 (245.21), Code 1977 Supplement, is repealed.

35 Sec. 61. Acts of the Sixty-seventh General Assembly, 1977

1 Session, chapter sixty-six (66), is amended by striking section
2 nine (9).

3 EXPLANATION

4 The bill makes technical changes of a corrective nature
5 to the new criminal code.

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LSB 4095S
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S-5395

1 Amend Senate File 2200 as follows:

2 1. Page 9, by inserting after line 32 the following
3 section:

4 "Sec. _____. Section six hundred ninety-one point
5 one (691.1), Code 1977 Supplement, is amended to read
6 as follows:

7 691.1 LABORATORY CREATED.

8 There is hereby created under the control, direc-
9 tion and supervision of the commissioner of public
10 safety a state criminalistics laboratory. The
11 commissioner of public safety may assign the
12 criminalistics laboratory to a division or bureau
13 within his or her department. The laboratory shall,
14 within its capabilities, conduct analyses, comparative
15 studies, fingerprint identification, firearms
16 identification, questioned documents studies, and
17 other studies normally performed by a criminalistics
18 laboratory when requested by a county attorney, medical
19 examiner, or law enforcement agency of this state
20 to aid in any criminal investigation. Agents of the
21 division of criminal investigation and bureau of
22 identification may be assigned to the criminalistics
23 laboratory by the commissioner. New employees shall
24 be appointed pursuant to chapter 19A, and need not
25 qualify as agents for the division of criminal
26 investigation and bureau of identification, and shall
27 not participate in the peace officers' retirement
28 plan established pursuant to chapter 97A."

29 2. By renumbering sections to conform to this
30 amendment.

S-5395 FILED *Adopted 3/28 (j.649)*
MARCH 23, 1978

BY: COMMITTEE ON JUDICIARY
GENE W. GLENN, Chairperson

SENATE FILE 2200

S-5415

- 1 Amend Senate File 2200 as follows:
2 1. Page 5, line 11, by striking the words "his
3 or her" and inserting in lieu thereof the words "his
4 the person's".
5 2. Page 5, line 34, by striking the words "his
6 or her" and inserting in lieu thereof the words "his
7 the person's".
8 3. Page 5, line 35, by striking the words "within
9 his or her" and inserting in lieu thereof the words
10 "within-his".
11 4. Page 6, line 10, by striking the words "his
12 or her" and inserting in lieu thereof the words "his
13 the officer's or employee's".
14 5. Page 6, line 33, by striking the words "his
15 or her" and inserting in lieu thereof the words "his
16 ex-her the offender's".
17 6. Page 7, line 10, by striking the words "his
18 or her" and inserting in lieu thereof the words "his
19 the person's".
20 7. Page 14, line 8, by striking the words "his
21 or her" and inserting in lieu thereof the words "his
22 the person's".
23 8. Page 14, line 25, by striking the word "he"
24 and inserting in lieu thereof the words "he the
25 person".
26 9. Page 15, line 33, by striking the words "in
27 his or her discretion" and inserting in lieu thereof
28 the words "in-his-ex-her-discretion".
29 10. Page 16, line 31, by striking the words
30 "himself or herself" and inserting in lieu thereof
31 the words "himself-ex-herself".
32 11. Page 17, line 28, by striking the words "his
33 or her" and inserting in lieu thereof the words "his
34 the accused's".
35 12. Page 19, line 15, by striking the words "his
36 or her" and inserting in lieu thereof the words "his
37 ex-her the defendant's".
38 13. Page 19, line 26, by striking the words "his
39 or her release" and inserting in lieu thereof, the
40 words "his-ex-her-release released".
41 14. Page 19, line 27, by inserting after the word
42 "paroles," the word "or".
43 15. Page 21, line 22, by striking the words "his
44 or" and inserting in lieu thereof the words "his-ex".
45 16. Page 21, line 23, by striking the word "her"
46 and inserting in lieu thereof the words "her the".
47 17. Page 21, line 26, by striking the words "he
48 or she" and inserting in lieu thereof the words "he
49 ex-she the defendant".
50 18. Page 21, line 30, by striking the words "he

S-5415
Page 2

1 or she" and inserting in lieu thereof the words "he
2 ex-she the defendant".

S-5415 FILED & ADOPTED (7 652)
MARCH 28, 1978

BY RAY TAYLOR

SENATE FILE 2200

S-5403

- 1 Amend Senate File 2200 as follows:
2 1. Page 21, line 13, by striking the words
3 "~~misdemeanors public offenses~~" and inserting in lieu
4 thereof the words "simple misdemeanors".

S-5403 FILED & ADOPTED (p. 650) BY GENE W. GLENN
MARCH 28, 1978

SENATE FILE 2200

S-5405

- 1 Amend Senate File 2200, page 11, by inserting after
2 line 12, the following new section:
3 "Sec. ____ Section seven hundred sixteen point
4 seven (716.7), subsection two (2), paragraph c, Code
5 1977 Supplement, is amended to read as follows:
6 Entering upon or in property for the purpose or with
7 the effect of unduly interfering with the lawful use
8 of the property by others or disinterring any human
9 remains from a burial site without lawful authority."

S-5405 FILED & ADOPTED (p. 650) BY E. KEVIN KELLY
MARCH 28, 1978

SENATE FILE 2200

S-5407

- 1 Amend Senate File 2200 as follows:
2 1. Page 16, by inserting after line 11 the fol-
3 lowing new section:
4 "Sec. 44. Section eight hundred five point six
5 (805.6), subsection one (1), paragraph c, unnumbered
6 paragraph one (1), Code 1977 Supplement, is amended
7 to read as follows:
8 Unless the officer issuing the citation
9 arrests the alleged offender, or permits admission
10 or requires submission of bail as provided in
11 section 805.9, subsection 3, the officer shall enter
12 in the blank contained in the statement required by
13 paragraph "a b" of this subsection one of the fol-
14 lowing amounts and shall require the person to sign
15 the written appearance:"
16 2. By correcting subsequent section numbers and
17 internal references to conform to this amendment.

S-5407 FILED & ADOPTED (p. 650) BY GENE W. GLENN
MARCH 28, 1978

1 Section 1. Section eighteen point one hundred eighteen
2 (18.118), Code 1977, is amended to read as follows:

3 18.118 PENALTY FOR PRIVATE USE. Any state officer or
4 employee ~~found-guilty-of~~ violating the rules of the state
5 vehicle dispatcher shall ~~upon-conviction, be fined-not-to~~
6 ~~exceed-one-hundred-dollars-or-imprisoned-not-to-exceed-thirty~~
7 ~~days-in-the-county-jail~~ guilty of a simple misdemeanor.

6115 >
8 Sec. 2. Section thirty-two point one (32.1), Code 1977,
9 is amended to read as follows:

10 32.1 DESECRATION OF FLAG OR INSIGNIA. Any person who
11 in any manner, for exhibition or display, shall place or cause
12 to be placed, any word, figure, mark, picture, design, drawing,
13 or any advertisement of any nature, upon any flag, standard,
14 color, ensign, shield, or other insignia of the United States,
15 or upon any flag, ensign, great seal, or other insignia of
16 this state, or shall expose or cause to be exposed to public
17 view, any such flag, standard, color, ensign, shield, or other
18 insignia of the United States, or any such flag, ensign, great
19 seal, or other insignia of this state, upon which shall have
20 been printed, painted, or otherwise placed, or to which shall
21 be attached, appended, affixed, or annexed, any word, figure,
22 mark, picture, design, or drawing, or any advertisement of
23 any nature, or who shall expose to public view, manufacture,
24 sell, expose for sale, give away, or have in possession for
25 sale, or to give away, or for use for any purpose any article
26 or substance, being an article of merchandise or a receptacle
27 of merchandise or article or thing for carrying or transporting
28 merchandise, upon which shall have been printed, painted,
29 attached or otherwise placed, a representation of any such
30 flag, standard, color, ensign, shield, or other insignia of
31 the United States, or any such flag, ensign, great seal, or
32 other insignia of this state, to advertise, call attention
33 to, decorate, mark, or distinguish the article or substance
34 on which so placed, or who shall publicly mutilate, deface,
35 defile or defy, trample upon, cast contempt upon, satirize,

1 deride or burlesque, either by words or act, such flag,
 2 standard, color, ensign, shield, or other insignia of the
 3 United States, or flag, ensign, great seal, or other insignia
 4 of this state, or who shall, for any purpose, place such flag,
 5 standard, color, ensign, shield, or other insignia of the
 6 United States, or flag, ensign, great seal, or other insignia
 7 of this state, upon the ground or where the same may be trod
 8 upon, shall be deemed guilty of a simple misdemeanor and shall
 9 ~~be punished by a fine not exceeding one hundred dollars or~~
 10 ~~by imprisonment for not more than thirty days and shall also~~
 11 ~~forfeit a penalty of fifty dollars for each such offense,~~
 12 ~~to be recovered, with costs, in a civil action or suit in~~
 13 ~~any court having jurisdiction.~~

14 Sec. 3. Section forty-three point one hundred nineteen
 15 (43.119), Code 1977, is amended to read as follows:

16 43.119 MISCONDUCT. Any party ~~committeeman~~ committee
 17 member or any primary election officer or public officer upon
 18 whom a duty is imposed by this chapter or by chapters herein
 19 made applicable, who shall willfully neglect to perform any
 20 such duty, or who shall willfully perform it in such a way
 21 as to hinder the objects thereof, or shall disclose to anyone,
 22 except as may be ordered by any court of justice, the manner
 23 in which a ballot may have been voted, shall be ~~punished by~~
 24 ~~a fine of not less than one hundred dollars nor more than~~
 25 ~~one thousand dollars, or by imprisonment in the county jail~~
 26 ~~for not to exceed one year, or by both such fine and~~
 27 ~~imprisonment~~ guilty of a serious misdemeanor.

28 Sec. 4. Section eighty-eight point fourteen (88.14),
 29 subsections five (5), six (6), and seven (7), Code 1977
 30 Supplement, is amended to read as follows:

31 5. WILLFUL VIOLATIONS CAUSING DEATH. Any employer who
 32 willfully violates any standard, rule, or order promulgated
 33 pursuant to section 83.5, or of any regulations prescribed
 34 pursuant to this chapter, and that violation caused death
 35 to any employee, shall, upon conviction, be ~~punished by a~~

1 ~~fine-of-not-more-than-ten-thousand-dollars-or-by-imprisonment~~
2 ~~for-not-more-than-six-months-or-by-both-such-fine-and-imprison-~~
3 ~~ment~~ guilty of a serious misdemeanor; except that if the con-
4 viction is for a violation committed after a first conviction
5 of such person, ~~punishment-shall-be-by-a-fine-of-not-more~~
6 ~~than-twenty-thousand-dollars-or-by-imprisonment-of-not-more~~
7 ~~than-one-year,-or-by-both-such-fine-and-imprisonment~~ the
8 person shall be guilty of an aggravated misdemeanor.

9 6. ADVANCE NOTICE OF INSPECTIONS. Any person who gives
10 advance notice of any inspection to be conducted under this
11 chapter, without authority from the commissioner or ~~his~~ the
12 commissioner's designees, shall, upon conviction, be ~~punished~~
13 ~~by-a-fine-of-not-more-than-one-thousand-dollars-or-by~~
14 ~~imprisonment-for-not-more-than-six-months,-or-by-both-such~~
15 ~~fine-and-imprisonment~~ guilty of a serious misdemeanor.

16 7. FILING FALSE DOCUMENTS. Whoever knowingly makes any
17 false statement, representation, or certification in any ap-
18 plication, record, report, plan, or other document filed or
19 required to be maintained pursuant to this chapter shall,
20 upon conviction, be ~~punished-by-a-fine-of-not-more-than-ten~~
21 ~~thousand-dollars,-or-by-imprisonment-of-not-more-than-six~~
22 ~~months,-or-by-both-such-fine-and-imprisonment~~ guilty of a
23 serious misdemeanor.

24 Sec. 5. Section eighty-eight A point ten (88A.10), subsec-
25 tion one (1), Code 1977 Supplement, is amended to read as
26 follows:

27 1. Any person who operates an amusement device or ride,
28 concession booth or related electrical equipment at a carnival
29 or fair without having obtained a permit from the commissioner
30 or who violates any order or rule issued by the commissioner
31 under this chapter is guilty of a serious misdemeanor and,
32 ~~upon-conviction,-shall-be-subject-to-imprisonment-in-the~~
33 ~~county-jail-for-not-more-than-one-year,-or-be-subject-to-a~~
34 ~~fine-not-to-exceed-ten-thousand-dollars,-or-be-subject-to~~
35 ~~both-such-imprisonment-and-fine.~~

1 Sec. 6. Section one hundred twenty-three point forty-six
2 (123.46), Code 1977, is amended to read as follows:

3 123.46 CONSUMPTION IN PUBLIC PLACES--INTOXICATION. It
4 is unlawful for any person to use or consume alcoholic liquors
5 or beer upon the public streets or highways, or alcoholic
6 liquors in any public place, except premises covered by a
7 liquor control license, or to possess or consume alcoholic
8 liquors or beer on any public school property or while
9 attending any public or private school related functions,
10 and no person shall be intoxicated nor simulate intoxication
11 in a public place. As used in this section "school" means
12 a school or that portion thereof, which provides teaching
13 for any grade from kindergarten through grade twelve. Any
14 person violating any provisions of this section shall be ~~fin~~
15 ~~not-to-exceed-one-hundred-dollars-or-sentenced-not-to-exceed~~
16 ~~thirty-days-in-the-county-jail~~ guilty of a simple misdemeanor.

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17 Sec. 7. Section one hundred fifty-five point thirty
18 (155.30), unnumbered paragraph one (1), Code 1977 Supplement,
19 is amended to read as follows:

20 Any person who violates a provision of section one hun-
21 dred fifty-five point twenty-nine (155.29) of the Code or
22 who sells or offers for sale, gives away, or administers to
23 another person any prescription drug shall be deemed-guilty
24 of-violating-the-provisions-of-this-section-or-who-violates
25 any-provisions-of-section-155-29-is guilty of a public of-
26 fense and punished as provided below.

27 Sec. 8. Section one hundred sixty-seven point nineteen
28 (167.19), Code 1977 Supplement, is amended to read as follows:

29 7.19 PENALTY.

30 The violation of any of the provisions of this chapter
31 or any rule adopted thereunder by the department shall be
32 ~~guilty-of~~ a simple misdemeanor.

33 Sec. 9. Section one hundred seventy-two C point eleven
34 (172C.11), Code 1977, is amended to read as follows:

35 172C.11 PENALTIES--REPORTS. Willful failure to file a

1 required report, or the willful filing of false information,
2 is a public offense. ~~---A person found guilty of violating this~~
3 ~~section shall be subject to a fine not to exceed one thousand~~
4 ~~dollars~~ serious misdemeanor.

5 Sec. 10. Section one hundred eighty-nine A point seven-
6 teen (189A.17), subsection five (5), paragraphs a, b, and
7 unnumbered paragraph one (1) of paragraph d, Code 1977, is
8 amended to read as follows:

9 a. Any person who neglects or refuses to attend and testify
10 or to answer any lawful inquiry, or to produce documentary
11 evidence, if it is in his the person's power to do so, in
12 obedience to the subpoena or lawful requirement of the
13 secretary shall be guilty of ~~an offense and upon conviction~~
14 ~~thereof by a court of competent jurisdiction shall be punished~~
15 ~~by a fine of not less than one thousand dollars nor more than~~
16 ~~five thousand dollars, or by imprisonment in the county jail~~
17 ~~for not more than one year, or by both such fine and~~
18 ~~imprisonment~~ a serious misdemeanor.

19 b. Any person who willfully makes, or causes to be made,
20 any false entry or statement of fact in any report required
21 to be made under this chapter, or who willfully makes, or
22 causes to be made, any false entry in any account, record,
23 or memorandum kept by any person subject to this chapter,
24 or who willfully neglects or fails to make or to cause to
25 be made, full, true, and correct entries in such accounts,
26 records, or memoranda, of all facts and transactions pertaining
27 to the business of such person, or who willfully removes
28 himself or herself from the jurisdiction of this state, or
29 willfully mutilates, alters, or by any other means falsifies
30 any documentary evidence of any person subject to this chapter
31 or who willfully refuses to submit to the secretary or to
32 any of his the secretary's authorized agents, for the purpose
33 of inspection and taking copies, any documentary evidence
34 of any person subject to this chapter in his the person's
35 possession or within his control, shall be deemed guilty of

1 an offense and shall be subject, upon conviction in any court
2 of competent jurisdiction, to a fine of not less than one
3 thousand dollars nor more than five thousand dollars, or to
4 imprisonment in the county jail or the penitentiary for a
5 term of not more than three years, or to both such fine and
6 imprisonment aggravated misdemeanor.

7 Any officer or employee of this state who makes public
8 any information obtained by the secretary, without ~~his~~ the
9 secretary's authority, unless directed by a court, or uses
10 any such information to ~~his~~ the officer's or employee's
11 advantage, shall be deemed guilty of a serious misdemeanor,
12 and upon conviction thereof shall be punished by a fine not
13 exceeding five thousand dollars, or by imprisonment in the
14 county jail not exceeding one year, or by both such fine and
15 imprisonment.

16 Sec. 11. Section one hundred ninety-one point three
17 (191.3), unnumbered paragraph three (3), Code 1977 Supplement,
18 is amended to read as follows:

19 Any person violating any provision of this section shall
20 be guilty of a simple misdemeanor, and the suspension person
21 shall have all licenses issued by the state for the public
22 eating place in which a violation occurred suspended for one
23 year of all licenses issued by the state of Iowa for the
24 public eating place in which said violation occurred.

25 Sec. 12. Section one hundred ninety-six point fourteen
26 (196.14), Code 1977, is amended to read as follows:

27 196.14 PENALTY. Any person found guilty of any violation
28 who violates a provision of this chapter shall upon conviction
29 for the first offense, be fined twenty-five dollars, for the
30 second offense, one hundred dollars, and for the third and
31 subsequent offenses, two hundred dollars be guilty of a simple
32 misdemeanor. In addition to such fines, if the offender is
33 a handler or a retailer, the court for the third offense shall
34 suspend ~~his or her~~ the offender's license for thirty days;
35 and for the fourth and any subsequent offense, such license

1 shall be revoked for a period of one year.

2 Sec. 13. Section one hundred ninety-eight point thir-
3 teen (198.13), subsections four (4) and six (6), Code 1977
4 Supplement, is amended to read as follows:

5 4. The secretary may apply for and the court ~~to~~ may grant
6 a temporary or permanent injunction restraining any person
7 from violating or continuing to violate any of the provisions
8 of this chapter or any rule promulgated under the chapter
9 notwithstanding the existence of other remedies of law. ~~Said~~
10 If granted, the injunction ~~to~~ shall be issued without bond.

11 6. Any person who uses ~~to~~ his the person's own advantage,
12 or reveals to other than the secretary, or officers of the
13 department or to the courts when relevant in any judicial
14 proceedings, any information acquired under the authority
15 of this chapter, concerning any method, records, formulations
16 or processes which as a trade secret is entitled to protection,
17 is guilty of a serious misdemeanor ~~and-shall-on-conviction~~
18 ~~thereof-be-fined-not-less-than-one-hundred-dollars-or~~
19 ~~imprisoned-for-not-less-than-six-months,-or-betn,-provided~~
20 ~~that-this.~~ This prohibition shall not be deemed as prohibiting
21 the secretary, or ~~his~~ the secretary's duly authorized agent,
22 from exchanging information of a regulatory nature with
23 appointed officials of the United States government, or of
24 other states, who are similarly prohibited by law from
25 revealing this information.

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26 Sec. 14. Section three hundred twenty-one point two hun-
27 dred sixty (321.260), unnumbered paragraph one (1), Code 1977,
28 is amended to read as follows:

29 Any person who willfully and intentionally, without lawful
30 authority, attempts to or in fact alters, defaces, injures,
31 knocks down, or removes any official traffic-control device,
32 any authorized warning sign or signal or barricade, whether
33 temporary or permanent, any railroad sign or signal, any
34 inscription, shield or insignia on any of such devices, signs,
35 signals, or barricades, or any other part thereof, shall,

1 upon conviction, be ~~punished-by-imprisonment-in-the-county~~
 2 ~~jail-for-not-more-than-six-months,-or-fined-not-more-than~~
 3 ~~five-hundred-dollars,-or-by-both-such-fine-and-imprisonment~~
 4 guilty of a serious misdemeanor.

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5 Sec. 15. Section three hundred twenty-eight point forty-
 6 one (328.41), unnumbered paragraph three (3), Code 1977
 7 Supplement, is amended to read as follows:

8 Any person who operates any aircraft, while in an
 9 intoxicated condition or under the influence of narcotic drugs
 10 in violation of this section, shall, upon conviction or a
 11 plea of guilty, be punished guilty of a serious misdemeanor
 12 for the first offense by a fine of not less than three-hundred
 13 dollars-nor-more-than-one-thousand-dollars,-or-by-imprisonment
 14 in-the-county-jail-for-a-period-not-to-exceed-one-year,-or
 15 by-both-such-fine-and-imprisonment,-, be guilty of an aggravated
 16 misdemeanor for the second offense by a fine of not less than
 17 five-hundred-dollars,-nor-more-than-one-thousand-dollars,-
 18 or-by-imprisonment-in-the-penitentiary-for-a-period-of-not
 19 to-exceed-one-year,-or-by-both-such-fine-and-imprisonment,-,
 20 and be guilty of a class D felony for a third offense by
 21 imprisonment-in-the-penitentiary-for-a-period-not-to-exceed
 22 three-years.

23 Sec. 16. Section four hundred fifty-two point five (452.5),
 24 Code 1977 Supplement, is amended to read as follows:

25 452.5 LOANS BY TREASURER OF STATE.

26 The treasurer of state shall be guilty of a serious mis-
 27 demeanor for ~~a-like-violation~~ loaning out, or in any manner
 28 using for private purposes, state, county, or other funds
 29 in the treasurer's hands.

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30 Sec. 17. Section five hundred seven A point ten (507A.10),
 31 Code 1977 Supplement, is amended to read as follows:

32 507A.10 PENALTIES.

33 Any unauthorized foreign or alien insurer who does any
 34 unauthorized act of an insurance business as set forth in
 35 this chapter shall be guilty of a ~~fraudulent-practice~~ serious

1 misdemeanor.

2 Sec. 18. Section five hundred fifteen point one hundred
3 twenty (515.120), Code 1977 Supplement, is amended to read
4 as follows:

5 515.120 VIOLATIONS.

6 Any officer, manager, or agent of any insurance company
7 or association who, with knowledge that it is doing business
8 in an unlawful manner, or is insolvent, solicits insurance
9 with said company or association, or receives applications
10 therefor, or does any other act or thing towards procuring
11 or receiving any new business for such company or association,
12 shall be guilty of a ~~fraudulent-practice~~ serious misdemeanor.

13 Sec. 19. Section five hundred thirty-seven point five
14 thousand three hundred one (537.5301), subsection four (4),
15 Code 1977 Supplement, is amended to read as follows:

16 4. A person who willfully and knowingly violates the
17 provisions of section 537.7103 is guilty of a serious mis-
18 ~~demeanor and-upon-conviction-may-be-sentenced-to-pay-a-fine~~
19 ~~not-exceeding-one-thousand-dollars.~~

20 Sec. 20. Section six hundred point eight (600.8), subsec-
21 tion one (1), paragraph b, unnumbered paragraph one (1), Code
22 1977 Supplement, is amended to read as follows:

23 A postplacement investigation and a report of this in-
24 vestigation ~~and-a-report-of-this-investigation~~ shall:

25 Sec. 21. Section six hundred two point sixty-two (602.62),
26 Code 1977 Supplement, is amended to read as follows:

27 602.62 PROCEDURE.

28 The criminal procedure before judicial magistrates shall
29 be as provided in chapters 804, 806, 808, 811, and 820, and
30 eight hundred twenty-one (821) of the Code Supplement, and
31 rules 2 and 32 through 46, rules of criminal procedure. The
32 civil procedure before judicial magistrates shall be as
33 provided in chapters 631 and 648.

34 Sec. 22. Section six hundred ninety-one point one (691.1),
35 Code 1977 Supplement, is amended to read as follows:

1 691.1 LABORATORY CREATED.

2 There is hereby created under the control, direction and
3 supervision of the commissioner of public safety a state
4 criminalistics laboratory. The commissioner of public safety
5 may assign the criminalistics laboratory to a division or
6 bureau within his or her department. The laboratory shall,
7 within its capabilities, conduct analyses, comparative studies,
8 fingerprint identification, firearms identification, questioned
9 documents studies, and other studies normally performed by
10 a criminalistics laboratory when requested by a county
11 attorney, medical examiner, or law enforcement agency of this
12 state to aid in any criminal investigation. Agents of the
13 division of criminal investigation and bureau of identification
14 may be assigned to the criminalistics laboratory by the
15 commissioner. New employees shall be appointed pursuant to
16 chapter 19A, and need not qualify as agents for the division
17 of criminal investigation and bureau of identification, and
18 shall not participate in the peace officers' retirement plan
19 established pursuant to chapter 97A.

20 Sec. 23. Section six hundred ninety-one point nine (691.9),
21 subsection one (1), Code 1977 Supplement, is amended to read
22 as follows:

23 1. Ammunition and firearms which are stolen or embezzled
24 or confiscated pursuant to a valid arrest or search warrant
25 and for which lawful possession is not established or for
26 which lawful title cannot be ascertained pursuant to ~~chapters~~
27 645-and chapter 809 shall be forwarded to the state
28 criminalistics laboratory for deposit by the law enforcement
29 agency having possession of such items. Ammunition and
30 firearms which were used in the perpetration or attempted
31 perpetration of a criminal offense and are owned by the
32 perpetrator of such offense shall be forfeited to the state,
33 and shall be deposited with the state criminalistics laboratory
34 if no longer required in a criminal action for evidentiary
35 purposes. Ammunition and firearms forfeited shall become

1 the property of the state.

2 Sec. 24. Section six hundred ninety-two point seventeen
3 (692.17), Code 1977 Supplement, is amended to read as follows:

4 692.17 EXCLUSIONS.

5 Criminal history data in a computer data storage system
6 ~~does~~ shall not include arrest or disposition data after the
7 person has been acquitted or the charges dismissed.

8 Sec. 25. Section seven hundred two point seventeen
9 (702.17), Code 1977 Supplement, is amended to read as follows:

10 702.17 SEX ACT.

11 The term "sex act" or "sexual activity" means any sexual
12 contact between two or more persons, by penetration of the
13 penis into the vagina or anus, by contact between the mouth
14 and genitalia or by contact between the genitalia of one
15 person and the genitalia or anus of another person or by use
16 of ~~artificial~~ artificial sexual organs or substitutes therefore
17 in contact with the genitalia or anus.

18 Sec. 26. Section seven hundred three point five (703.5),
19 subsection two (2), unnumbered paragraph two (2), Code 1977
20 Supplement, is amended to read as follows:

21 "High managerial agent" means an officer of the corpora-
22 tion, partner, or other agent in a position of comparable
23 authority with respect to the formulation of policy or the
24 ~~asupervision~~ supervision in a managerial capacity of subor-
25 dinate employees.

26 Sec. 27. Section seven hundred four point twelve (704.12),
27 Code 1977 Supplement, is amended to read as follows:

28 704.12 USE OF FORCE IN MAKING AN ARREST.

29 A peace officer or other person making an arrest or securing
30 an arrested person may use such force as is permitted by
31 ~~sections 804.44 through 804.46~~ eight hundred four point eight
32 (804.8), eight hundred four point ten (804.10), eight hun-
33 dred four point thirteen (804.13), and eight hundred four
34 point fifteen (804.15) of the Code Supplement.

35 Sec. 28. Section seven hundred sixteen point seven (716.7),

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1 subsection two (2), paragraph c, Code 1977 Supplement, is
2 amended to read as follows:

3 Entering upon or in property for the purpose or with the
4 effect of unduly interfering with the lawful use of the
5 property by others or disinterring any human remains from
6 a burial site without lawful authority.

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7 Sec. 29. Section seven hundred fourteen point twenty-one
8 (714.21), Code 1977 Supplement, is amended to read as follows:
9 714.21 PENALTY.

10 Violation of any of the provisions of sections 714.17,
11 714.18, or 714.20* shall be ~~punishable upon conviction by~~
12 ~~a fine not exceeding five hundred dollars or six months in~~
13 ~~jail, or both~~ a serious misdemeanor.

14 Sec. 30. Section seven hundred twenty-one point six
15 (721.6), Code 1977 Supplement, is amended to read as follows:
16 721.6 EXCEPTION TO SECTIONS 721.3 TO 721.5.

17 The provisions of sections 721.3 to 721.5, inclusive, shall
18 not be construed as prohibiting any such officer or employee
19 who is a candidate for political office to engage in campaign
20 campaigning at any time or at any place for himself or herself.

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21 Sec. 31. Section seven hundred twenty-five point ten
22 (725.10), Code 1977 Supplement, is amended to read as follows:
23 725.10 POOL SELLING--PLACES USED FOR.

24 Any person who records or registers bets or wagers or sells
25 pools upon the result of any trial or contest of skill, speed,
26 or power of endurance of man or beast, or upon the result
27 of any political nomination or election, and any person who
28 keeps a place for the purpose of doing any such thing, and
29 any owner, lessee, or occupant of any premises, who knowingly
30 permits the same, or any part thereof, to be used for any
31 such purpose, and anyone who, as custodian or depositary
32 thereof, for hire or reward, receives any money, property,
33 or thing of value staked, wagered, or bet upon any such result,
34 shall be ~~fined not exceeding one thousand dollars, or~~
35 ~~imprisoned in the county jail not exceeding one year, or both~~

1 guilty of a serious misdemeanor.

2 Sec. 32. Section seven hundred twenty-five point eleven
3 (725.11), Code 1977 Supplement, is amended to read as follows:

4 725.11 BULLFIGHTS AND OTHER CONTESTS.

5 If any person keep or use, or in any way be connected with,
6 or be interested in the management of, or receive money for
7 the admission of any person to, any place kept or used for
8 the purpose of fighting or baiting any bull, bear, dog, cock,
9 or other creature, or engage in, aid, abet, encourage, or
10 assist in any bull, bear, dog, or cock fight, or a fight
11 between any other creatures, ~~he~~ the person shall be guilty
12 of a serious misdemeanor.

13 Sec. 33. Section seven hundred twenty-five point fourteen
14 (725.14), Code 1977 Supplement, is amended to read as follows:

15 725.14 PUNISHMENT FOR SECTION 725.13.

16 A violation of the provisions of section 725.13 shall be
17 ~~punished by a fine not less than five nor exceeding one hundred~~
18 ~~dollars, or imprisonment in the county jail not exceeding~~
19 ~~thirty days~~ a simple misdemeanor.

20 Sec. 34. Section seven hundred twenty-five point sixteen
21 (725.16), Code 1977 Supplement, is amended to read as follows:

22 725.16 GAMBLING PENALTY.

23 A person who commits an offense declared in ~~sections 725.5~~
24 ~~through 725.48 or~~ chapter 99B to be a misdemeanor shall be
25 guilty of a serious misdemeanor.

26 Sec. 35. Section seven hundred twenty-eight point four
27 (728.4), Code 1977 Supplement, is amended to read as follows:

28 728.4 SALE OF HARD CORE PORNOGRAPHY.

29 Any person who knowingly sells or offers for sale material
30 depicting a sex act involving sado-masochistic abuse, excretory
31 functions, a child, or bestiality which the average adult
32 taking the material as a whole in applying contemporary
33 community standards would find that it appeals to the prurient
34 interest and is patently offensive; and the material, taken
35 as a whole, lacks serious literary, scientific, political,

1 or artistic value shall, upon conviction be guilty of a simple
2 misdemeanor. Charges under this section may only be brought
3 by a county attorney, or by the attorney general,~~or a grand~~
4 ~~jury.~~

5 Sec. 36. Section seven hundred twenty-nine point one
6 (729.1), Code 1977 Supplement, is amended to read as follows:
7 729.1 RELIGIOUS TEST.

8 Any violation of section 4, Article I of the Constitution
9 of Iowa is hereby declared to be a serious misdemeanor.

10 Sec. 37. Section seven hundred twenty-nine point three
11 (729.3), Code 1977 Supplement, is amended to read as follows:
12 729.3 PENALTY.

13 Any person, agency, bureau, corporation, or association
14 that violates provisions of sections 729.1 and 729.2 shall
15 be guilty of a simple misdemeanor ~~and upon conviction be fined~~
16 ~~not less than twenty-five dollars nor more than one hundred~~
17 ~~dollars, or imprisoned not more than thirty days, or by both~~
18 ~~such fine and imprisonment.~~

19 Sec. 38. Section seven hundred twenty-nine point four
20 (729.4), subsection three (3), Code 1977 Supplement, is amended
21 to read as follows:

22 3. Any person, employer, labor union or organization or
23 officer of a labor union or organization convicted of a
24 violation of subsections 1 or 2 shall be ~~punished by a fine~~
25 ~~not to exceed one hundred dollars or imprisonment in the~~
26 ~~county jail not to exceed thirty days~~ guilty of a simple
27 misdemeanor.

28 Sec. 39. Section seven hundred thirty point one (730.1),
29 Code 1977 Supplement, is amended to read as follows:
30 730.1 PUNISHMENT.

31 If any person, agent, company, or corporation, after having
32 discharged any employee from ~~his or its~~ service, shall prevent
33 or attempt to prevent, by word or writing of any kind, such
34 discharged employee from obtaining employment with any other
35 person, company, or corporation, except by furnishing in

1 writing on request a truthful statement as to the cause of
2 his the person's discharge, such person, agent, company, or
3 corporation shall be ~~punished-by-a-fine-not-exceeding-five~~
4 ~~hundred-not-less-than-one-hundred-dollars,~~ guilty of a serious
5 misdemeanor and shall be liable for all damages sustained
6 by any such person.

7 Sec. 40. Section seven hundred thirty point three (730.3),
8 Code 1977 Supplement, is amended to read as follows:

9 730.3 FALSE CHARGES CONCERNING HONESTY.

10 Every person who shall by any letter, mark, sign, or
11 designation whatever, or by any verbal statement, falsely
12 and without probable cause, report to any railroad or any
13 other company or corporation, or to any person or firm, or
14 to any of the officers, servants, agents, or employees of
15 any such corporation, person, or firm, that any conductor,
16 brakeman, engineer, fireman, station agent, or any employee
17 of such railroad company, corporation, person, or firm has
18 received any money or thing of value for the transportation
19 of persons or property or for other service for which he the
20 person has not accounted to such corporation, person, or firm,
21 or shall falsely and without probable cause report that any
22 conductor, brakeman, engineer, fireman, station agent, or
23 other employee of any railroad company, corporation, firm,
24 or person, neglected, failed, or refused to collect any money
25 or ticket for transportation of persons or property or other
26 service when it was their duty so to do, shall, on conviction,
27 be adjudged guilty of a simple misdemeanor, ~~and upon conviction~~
28 ~~thereof shall be fined in a sum not exceeding one hundred~~
29 ~~dollars or be imprisoned in the county jail for a period not~~
30 ~~exceeding thirty days.~~

31 Sec. 41. Section seven hundred thirty-one point six
32 (731.6), Code 1977 Supplement, is amended to read as follows:

33 731.6 PENALTY.

34 Any person, firm, association, labor organization, or
35 corporation or any director, officer, representative, agent

1 or member thereof, who shall violate any of the provisions
2 of this chapter or who shall aid and abet in such violation
3 shall be ~~deemed~~ guilty of a serious misdemeanor.

4 Sec. 42. Section seven hundred thirty-two point four
5 (732.4), Code 1977 Supplement, is amended to read as follows:
6 732.4 PENALTY.

7 Any person, or any labor union, labor association or labor
8 organization or any officer, representative, agent or member
9 thereof who shall violate any of the provisions of this chapter
10 shall be ~~deemed~~ guilty of a simple misdemeanor ~~and shall,~~
11 ~~upon conviction thereof, be punished by a fine of not more~~
12 ~~than one hundred dollars or by imprisonment in the county~~
13 ~~jail for a period of not more than thirty days.~~

14 Sec. 43. Section eight hundred one point four (801.4),
15 subsection eleven (11), Code 1977 Supplement, is amended to
16 read as follows:

17 11. "Complaint" means a statement in writing, under oath
18 or affirmation, made before a magistrate or district court
19 clerk or clerk's deputy as the case may be, of the commission
20 of a public offense, and accusing someone thereof. A com-
21 plaint shall be substantially in the form provided in the
22 Iowa rules of criminal procedure.

23 Sec. 44. Section eight hundred four point one (804.1),
24 unnumbered paragraph two (2), Code 1977 Supplement, is amended
25 to read as follows:

26 Whenever the complaint charges a simple misdemeanor, the
27 magistrate may ~~in his or her discretion~~ issue a citation
28 instead of a warrant of arrest. The citation shall set forth
29 substantially the nature of the offense and shall command
30 the person against whom the complaint was made to appear
31 before the magistrate issuing the citation at a time and place
32 stated therein.

33 Sec. 45. Section eight hundred four point twenty-three
34 (804.23), unnumbered paragraph one (1), Code 1977 Supplement,
35 is amended to read as follows:

1 The officer shall, without unnecessary delay, take the
2 person arrested pursuant to section ~~804.8~~ eight hundred four
3 point eleven (804.11) of the Code Supplement before the nearest
4 or most accessible magistrate to the place where the arrest
5 occurred.

6 Sec. 46. Section eight hundred five point six (805.6),
7 subsection one (1), paragraph c, unnumbered paragraph one
8 (1), Code 1977 Supplement, is amended to read as follows:

9 Unless the officer issuing the citation arrests the alleged
10 offender, or permits admission or requires submission of bail
11 as provided in section 805.9, subsection 3, the officer shall
12 enter in the blank contained in the statement required by
13 paragraph "a b" of this subsection one of the following amounts
14 and shall require the person to sign the written appearance:

15 Sec. 47. Section eight hundred eleven point one (811.1),
16 Code 1977 Supplement, is amended to read as follows:

17 811.1 BAILABLE AND NONBAILABLE OFFENSES.

18 All defendants are bailable both before and after
19 conviction, by sufficient surety, or subject to release upon
20 condition or on their own recognizance, except that a defendant
21 convicted of a class A felony shall not be admitted to bail
22 while appealing such conviction ~~or seeking post-conviction~~
23 relief.

24 Sec. 48. Section eight hundred eleven point five (811.5),
25 Code 1977 Supplement, is amended to read as follows:

26 811.5 BAIL ON APPEAL.

27 After conviction, upon appeal to the supreme appellate
28 court, the defendant must be admitted to bail, if it be from
29 the judgment imposing a fine, upon the undertaking of bail
30 that the defendant will, in all respects, abide the orders
31 and the judgment of the supreme appellate court upon appeal;
32 if from a judgment of imprisonment, except as provided in
33 section 811.1 upon the undertaking of bail that the defendant
34 will surrender himself-or-herself in execution of the judgment
35 and direction of the supreme appellate court, and in all

1 respects abide the orders and judgment of the ~~supreme~~ appellate
2 court upon the appeal. Such bail may be taken, either by
3 the court where the judgment was rendered, or the district
4 court of the county in which the defendant is imprisoned,
5 or by the ~~supreme~~ appellate court, or a judge or clerk of
6 any of such courts. Provided, that in lieu of bail, bailable
7 defendants as described herein may be released in accordance
8 with the provisions of section 811.2.

9 Sec. 49. Section eight hundred fourteen point five (814.5),
10 subsection two (2), paragraph a, Code 1977 Supplement, is
11 amended to read as follows:

12 a. an order ~~quashing~~ dismissing an arrest or search
13 warrant.

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14 Sec. 50. Section eight hundred twenty point eleven
15 (820.11), Code 1977 Supplement, is amended to read as follows:
16 820.11 PENALTY FOR WILLFUL DISOBEDIENCE.

17 Any officer who shall deliver to the agent for extradi-
18 tion of the demanding state a person in ~~his~~ the officer's
19 custody under the governor's warrant, in willful disobedience
20 to the last section, shall be guilty of a simple misdemeanor
21 ~~and, on conviction, shall be fined not more than one hundred~~
22 ~~dollars or be imprisoned not more than thirty days.~~

23 Sec. 51. Section eight hundred twenty point seventeen
24 (820.17), Code 1977 Supplement, is amended to read as follows:
25 820.17 DISCHARGE OR RECOMMITMENT.

26 If the accused is not arrested under warrant of the governor
27 by the expiration of the time specified in the warrant or
28 bond, a judge or magistrate may discharge ~~him or may recommit~~
29 him or recommit the accused for a further period not to exceed
30 sixty days, or a judge or magistrate ~~judge~~ may again take
31 bail for ~~his~~ the accused's appearance and surrender, as
32 provided in section 820.16, but within a period not to exceed
33 sixty days after the date of such new bond.

34 Sec. 52. Section eight hundred twenty-one point four
35 (821.4), Code 1977 Supplement, is amended to read as follows:

1 821.4 HABITUAL CRIMINALS.

2 Nothing in this chapter or in the agreement on detainers
3 shall be construed to require the application of ~~chapter-747~~
4 section nine hundred two point eight (902.8) of the Code
5 Supplement to any person on account of any conviction had
6 in a proceeding brought to final disposition by reason of
7 the use of this agreement.

8 Sec. 53. Section nine hundred one point two (901.2),
9 unnumbered paragraph two (2), Code 1977 Supplement, is amended
10 to read as follows:

11 The court may withhold execution of any judgment or sen-
12 tence for such time as shall be reasonably necessary for an
13 investigation with respect to deferment of judgment, defer-
14 ment of sentence, or suspension of sentence and probation.
15 The investigation shall be made by the judicial district
16 department of correctional services.

17 Sec. 54. Section nine hundred one point four (901.4),
18 Code 1977 Supplement, is amended to read as follows:

19 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

20 The court may, in its discretion, make the presentence
21 investigation report or parts of it available to the defendant,
22 or the court may make the report or parts of it available
23 while concealing the identity of the person who provided
24 confidential information. The report of any medical
25 examination or psychiatric evaluation shall be made available
26 to the attorney for the state and to the defendant upon
27 request. Such reports shall be part of the record but shall
28 be sealed and opened only on order of the court. In any case
29 where the defendant is committed to the custody of the division
30 of adult corrections and is not a class A felon, a copy of
31 the presentence investigation report shall be sent to the
32 director at the time of commitment.

33 Sec. 55. Section nine hundred one point five (901.5),
34 Code 1977 Supplement, is amended by adding the following new
35 subsections:

1 NEW SUBSECTION. If authorized by section nine hundred
2 seven point three (907.3) of the Code Supplement, the court
3 may defer the sentence and assign the defendant to the judicial
4 district department of correctional services.

5 NEW SUBSECTION. The court may pronounce judgment and
6 sentence the defendant to confinement and then reconsider
7 the sentence as provided by section nine hundred two point
8 four (902.4) or nine hundred three point two (903.2) of the
9 Code Supplement.

10 Sec. 56. Section nine hundred two point one (902.1), Code
11 1977 Supplement, is amended to read as follows:

12 902.1 CLASS A FELONY.

13 Upon a plea of guilty, a verdict of guilty, or a special
14 verdict upon which a judgment of conviction of a class A
15 felony may be rendered, the court shall enter a judgment of
16 conviction and shall commit the defendant into the custody
17 of the director of the division of adult corrections for the
18 rest of his-or-her the defendant's life. Nothing in the Iowa
19 corrections code pertaining to deferred judgment, deferred
20 sentence, suspended sentence, or probation reconsideration
21 of sentence shall apply to a class A felony, and no person
22 convicted of a class A felony shall be released on parole
23 unless the governor commutes the sentence to a term of years.

24 Sec. 57. Section nine hundred two point six (902.6), Code
25 1977 Supplement, is amended to read as follows:

26 902.6 RELEASE.

27 A person who has been committed to the custody of the
28 director of the division of adult corrections shall remain
29 in such custody until his-or-her-release released by the order
30 of the board of parole, in accordance with the law governing
31 paroles, or by order of the judge after reconsideration of
32 a felon's sentence pursuant to section nine hundred two point
33 four (902.4) of the Code Supplement, or until the maximum
34 term of the person's confinement, as fixed by law, has been
35 completed.

1 Sec. 58. Section nine hundred seven point three (907.3),
2 unnumbered paragraph one (1), Code 1977 Supplement, is amended
3 to read as follows:

4 Pursuant to section 901.5, the trial court may, upon a
5 plea of guilty, a verdict of guilty, or a special verdict
6 upon which a judgment of conviction may be rendered, exercise
7 ~~either~~ any of the options contained in subsections 1 and 2
8 of this section. However, this section shall not apply to
9 a forcible felony or a violation of section 204.401, subsection
10 1 or 2, to which section 204.409, subsection 2 is not
11 applicable and which is not proved to be an accommodation
12 offense under section 204.410.

6450
13 Sec. 59. Section nine hundred seven point five (907.5),
14 Code 1977 Supplement, is amended to read as follows:

15 907.5 STANDARDS FOR RELEASE ON PROBATION--WRITTEN REASONS.

16 Before deferring judgment, deferring sentence, or suspending
17 sentence, the court first shall determine which option, if
18 available, will provide maximum opportunity for the
19 rehabilitation of the defendant and protection of the community
20 from further offenses by the defendant and others. In making
21 this determination the court shall consider the age of the
22 defendant; the defendant's prior record of convictions and
23 prior record of deferments of judgment if any; the defendant's
24 employment circumstances; the defendant's family circumstances;
25 the nature of the offense committed; and such other factors
26 as are appropriate. The court shall file a specific written
27 statement of its reasons for and the facts supporting its
28 decision to defer judgment, to defer sentence, or to suspend
29 sentence, and its decision on the length of probation.

30 Sec. 60. Section nine hundred seven point seven (907.7),
31 unnumbered paragraph two (2), Code 1977 Supplement, is amended
32 to read as follows:

33 The length of the probation shall not be less than one
34 year if the offense is a misdemeanor and shall not be less
35 than two years if the offense is a felony. However, the court

1 may subsequently reduce the length of the probation if the
2 court determines that the purposes of probation have been
3 fulfilled. The purposes of probation are to provide maximum
4 opportunity for the rehabilitation of the defendant and to
5 protect the community from further offenses by the defendant
6 and others.

7 Sec. 61. Section nine hundred seven point twelve (907.12),
8 subsection one (1), paragraph c, and subsection three (3),
9 Code 1977 Supplement, is amended to read as follows:

10 c. "Criminal activities" includes any crime for which
11 there is a plea of guilty, verdict of guilty, or special
12 verdict upon which a judgment of conviction may be rendered
13 and any other crime committed after July 1, 1972 which is
14 admitted or not contested by the defendant, whether or not
15 prosecuted. However, "criminal activities" does not include
16 simple misdemeanors under chapter 321.

17 3. If the trial court exercises ~~either~~ any of the
18 sentencing options under section 907.3, the court shall require
19 as a condition of probation that the defendant, in cooperation
20 with the probation officer assigned to the defendant, promptly
21 prepare a plan of restitution, including a specific amount
22 of restitution to each victim and a schedule of restitution
23 payments. If the defendant is presently unable to make any
24 restitution but there is a reasonable possibility that the
25 defendant may be able to do so at some time during ~~his-or~~
26 ~~her~~ the probation period, the plan of restitution shall also
27 state the conditions under which or the event after which
28 the defendant will make restitution. If the defendant believes
29 that ~~he-or-she~~ the defendant will not be able to make any
30 restitution, the defendant shall so state and shall specify
31 the reasons. If the defendant believes that no person suffered
32 pecuniary damages as a result of the defendant's criminal
33 activities, ~~he-or-she~~ the defendant shall so state.

34 Sec. 62. Section one hundred nine point one hundred
35 nineteen (109.119), Code 1977, is repealed.

1 Sec. 63. Section two hundred forty-five point twenty-one
2 (245.21), Code 1977 Supplement, is repealed.

3 Sec. 64. Chapter one thousand two hundred forty-five
4 (1245), Acts of the Sixty-sixth General Assembly, 1976 Session,
5 chapter four (4), section four hundred eighty-nine (489),
6 is amended to read as follows:

7 SEC. 489. Section six hundred two point sixty-two (602.62),
8 Code 1975, is amended to read as follows:

9 602.62 PROCEDURE. The criminal procedure before judicial
10 magistrates shall be as provided in ~~chapters-7547-754-to-7637~~
11 ~~7657-7667-and-768~~ chapter ~~one-(4)~~ two (2), divisions four
12 (IV), six (VI), eight (VIII), eleven (XI) of this Act, rules
13 two (2) and thirty-two (32) through forty-six (46), rules
14 of criminal procedure, and chapter seven hundred fifty-nine
15 (759) of the Code. The civil procedure before judicial
16 magistrates shall be as provided in chapters 631 and 648.

17 Sec. 65. Acts of the Sixty-seventh General Assembly, 1977
18 Session, chapter sixty-six (66), is amended by striking section
19 nine (9).

20 Sec. 66. Acts of the Sixty-seventh General Assembly, 1977
21 Session, chapter one hundred fifty-four (154), is amended
22 by striking section thirty-one (31).

23 EXPLANATION

24 The bill makes technical changes of a corrective nature
25 to the new criminal code.

SENATE FILE 2200

H-5941

- 1 Amend Senate File 2200 as amended and passed by
2 the Senate as follows:
3 1. Page 7, by inserting after line 25 the following
4 section:
5 "Sec. _____. Chapter three hundred five A (305A),
6 Code 1977, is amended by adding the following new
7 section:
8 NEW SECTION. AUTHORITY TO DENY PERMISSION TO
9 DISINTER HUMAN REMAINS. The state archaeologist shall
10 have the authority to deny permission to disinter
11 human remains that he or she determines have state
12 and national significance from an historical or
13 scientific standpoint for the inspiration and benefit
14 of the people of the United States."
15 2. Page 11, by striking line 35.
16 3. Page 12, by striking lines 1 through 6 and
17 inserting in lieu thereof the following section:
18 "Sec. _____. Section seven hundred sixteen point
19 five (716.5), Code 1977 Supplement, is amended by
20 adding the following new unnumbered paragraph:
21 NEW UNNUMBERED PARAGRAPH. A person commits criminal
22 mischief in the third degree who does either of the
23 following:
24 1. Intentionally disinters human remains from
25 a burial site without lawful authority.
26 2. Intentionally disinters human remains that
27 have state and national significance from an historical
28 or scientific standpoint for the inspiration and
29 benefit of the United States without the permission
30 of the state archaeologist."
31 4. By renumbering sections as necessary.

H-5941 FILED *Adopted* BY DOYLE of Woodbury
APRIL 6, 1978 (*p. 2127*) HUSAK of Tama

SENATE FILE 2200

H-6702

1 Amend Senate File 2200, as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 8, by inserting after line 4 the following
4 new section:

5 "Sec. _____. Chapter three hundred twenty-one (321),
6 Code 1977, is amended by adding the following new
7 section:
8 NEW SECTION. VEHICLES WITHOUT IDENTIFICATION
9 NUMBERS. Any person who knowingly buys, receives,
10 disposes of, sells, offers for sale, or has in his
11 or her possession any vehicle, or any component part
12 of a vehicle, from which the vehicle identification
13 number or component part number has been removed,
14 defaced, covered, altered, or destroyed for the purpose
15 of concealing or misrepresenting the identity of the
16 vehicle or component part is guilty of a simple
17 misdemeanor."

18 2. Page 12, by inserting after line 6 the following
19 new section:

20 "Sec. _____. Section seven hundred fourteen point
21 eight (714.8), Code 1977 Supplement, is amended by
22 adding the following new subsection:

23 NEW SUBSECTION. Removes, defaces, covers, alters,
24 or destroys any component part number as defined in
25 section three hundred twenty-one point one (321.1),
26 subsection seventy-four (74), of the Code or vehicle
27 identification number as defined in section three
28 hundred twenty-one point one (321.1), subsection
29 seventy-five (75), of the Code for the purpose of
30 concealing or misrepresenting the identity of the
31 component part or vehicle."

32 3. Renumber sections and correct internal
33 references as necessary in accordance with this
34 amendment.

H-6702 FILED *Adopted* BY NIELSEN of Polk
May 12, 1978 *5/12 (2637)* SCHROEDER of Pottawattamie
KRAUSE of Kossuth

1 Amend Senate File 2200 as amended, passed, and
2 reprinted by the Senate as follows:

3 1. Page 7, by inserting after line 25 the follow-
4 ing section:

5 "Sec. _____. Section three hundred twenty-one point
6 ninety-seven (321.97), Code 1977 Supplement, is amended
7 to read as follows:

8 321.97 FRAUDULENT APPLICATIONS. Any person who
9 fraudulently uses a false or fictitious name in any
10 application for the registration of, or certificate
11 of title to, a vehicle or knowingly makes a false
12 statement or knowingly conceals a material fact or
13 otherwise commits a fraud in any such application
14 is guilty of a fraudulent practice."

15 2. Page 8, by inserting after line 29 the follow-
16 ing section:

17 "Sec. _____. Section five hundred seven point sixteen
18 (507.16), Code 1977 Supplement, is amended to read
19 as follows:

20 507.16 UNLAWFUL SOLICITATION OF BUSINESS. Any
21 officer, manager, agent, or representative of any
22 insurance company contemplated by this chapter, who,
23 with knowledge that its certificate of authority has
24 been suspended or revoked, or that it is insolvent,
25 or is doing an unlawful or unauthorized business,
26 solicits insurance for said company, or receives
27 applications therefor, or does any other act or thing
28 toward receiving or procuring any new business for
29 said company, shall be deemed guilty of a serious
30 misdemeanor, and the provisions of said sections five
31 hundred eleven point sixteen (511.16) of the Code
32 Supplement and five hundred eleven point seventeen
33 (511.17) of the Code are hereby extended to all
34 companies contemplated by this chapter."

35 3. Page 9, line 14, by striking the word "subsec-
36 tion" and inserting in lieu thereof the words and
37 figure "subsections three (3) and".

38 4. Page 9, by inserting after line 15 the follow-
39 ing subsection:

40 "3. A person who willfully and knowingly engages
41 in the business of entering into consumer credit
42 transactions, or of taking assignments of rights
43 against consumers arising therefrom and undertaking
44 direct collection of payments or enforcement of these
45 rights, without complying with the provisions of this
46 chapter concerning notification under section 537.6202
47 or payment of fees under section 537.6203, is guilty
48 of a simple misdemeanor and upon conviction may be
49 sentenced to pay a fine not exceeding one hundred
50 dollars."

1 5. Page 9, line 21, by inserting after the words
2 and figure "paragraph one (1)" the words and figure
3 "and subsection two (2), paragraph a".
4 6. Page 9, by inserting after line 24 the follow-
5 ing lettered paragraph:
6 "a. A preplacement investigation and report of
7 the investigation shall be completed and the
8 prospective adoption petitioner approved for a
9 placement by the person making the investigation prior
10 to any agency or independent placement of a minor
11 person in the petitioner's home in anticipation of
12 an ensuing adoption. A report of a preplacement
13 investigation that has approved a prospective adoption
14 petitioner for a placement shall not authorize
15 placement of a minor person with that petitioner after
16 one year from the date of the report's issuance.
17 However, if the prospective adoption petitioner is
18 a stepparent or a relative within the fourth degree
19 of consanguinity who has assumed custody of a minor
20 person to be adopted, a preplacement investigation
21 of this petitioner and a report of the investigation
22 may be completed at a time established by the court
23 or may be waived as provided in section-6 subsection
24 twelve (12) of this section."
25

7. By renumbering as necessary.

H-6119 FILED *Adopted 5/2* BY JESSE of Polk
APRIL 18, 1978 (*p. 2129*)

SENATE FILE 2200

H-6113

1 Amend Senate File 2200 as amended and passed by
2 the Senate as follows:
3 1. Page 11, by inserting after line 34 the follow-
4 ing section:
5 "Sec. ____ Section seven hundred nine point four
6 (709.4), unnumbered paragraph one (1) and subsections
7 one (1) and four (4), Code 1977 Supplement, are amended
8 to read as follows:
9 Any sex act between persons who are not at the
10 time cohabiting as husband and wife is sexual abuse
11 in the third degree by ~~either-of-the-participants~~
12 a person when the act is performed with the other
13 participant in any of the following circumstances:
14 1. Such act is done by force or against the will
15 of the other participant.
16 4. The other ~~person~~ participant is fourteen or
17 fifteen years of age ~~but-less-than-sixteen-years-of~~
18 age and the ~~defendant~~ person is a member of the same
19 household as the ~~victim~~ other participant, the
20 ~~defendant~~ person is related to the ~~victim~~ other
21 participant by blood or affinity to the fourth degree,
22 or the ~~defendant~~ person is in a position of authority
23 over the ~~victim~~ other participant and used this
24 authority to coerce the ~~victim~~ other participant to
25 submit."
26 2. By renumbering sections as necessary.

H-6113 FILED *Adopted 5/2* BY SPEAR of Lee
APRIL 18, 1978 (*p. 2132*)

1 Amend Senate File 2200 as amended, passed and
2 reprinted by the Senate as follows:

3 1. Page 1, by inserting after line 7 the follow-
4 ing sections:

5 "Sec. _____. Section twenty-nine A point thirty-
6 five (29A.35), Code 1977, is amended to read as
7 follows:

8 29A.35 USE FOR MILITARY ONLY. All arms, clothing,
9 equipment, and other military property furnished or
10 issued by the federal government or the state or for
11 which an allowance has been made, shall be used for
12 military purposes only, and each officer and enlisted
13 person upon being separated from the military forces
14 of the state, or upon demand of the commanding officer,
15 shall forthwith surrender such military property in
16 the officer's or enlisted person's possession to said
17 commanding officer. Any member of the national guard
18 who shall neglect to return to the armory of the unit,
19 or place in charge of the commanding officer of the
20 organization to which the member belongs, any arms,
21 clothing, equipment, or other military property or
22 portion thereof, belonging to the federal government
23 or the state, upon being notified by said commanding
24 officer to do so, shall be guilty of a serious
25 misdemeanor.

26 Sec. _____. Section twenty-nine A point thirty-six
27 (29A.36), Code 1977, is amended to read as follows:

28 29A.36 INJURY OR DESTRUCTION OF PROPERTY. Every
29 person who shall willfully or wantonly injure or
30 destroy any articles of arms, clothing, equipment,
31 or other military property furnished or issued by
32 the federal government or the state, and refuses to
33 make good such injury or loss; or who shall sell,
34 dispose of, secrete or remove the same with intent
35 to sell or dispose of it, shall be ~~punished by a fine~~
36 ~~of not less than one hundred dollars nor more than~~
37 ~~five hundred dollars, or be imprisoned in the county~~
38 ~~jail for not more than four months, or by both such~~
39 ~~fine and imprisonment~~ guilty of a simple misdemeanor.

40 Sec. _____. Section twenty-nine A point thirty-eight
41 (29A.38), Code 1977, is amended to read as follows:

42 29A.38 SERIOUS MISDEMEANORS. Any officer or
43 enlisted person of the national guard who knowingly
44 makes any false certificate of muster or false return
45 of federal or state property or funds in the officer's
46 or enlisted person's possession shall be guilty of
47 a serious misdemeanor.

48 Sec. _____. Section twenty-nine A point thirty-nine
49 (29A.39), Code 1977, is amended to read as follows:

50 29A.39 ~~EMBEZZLEMENT~~ THEFT. Any officer or enlisted

1 person of the national guard who willfully neglects
2 or refuses to apply all money, in the officer's or
3 enlisted person's possession drawn from the state
4 treasury, to the purpose for which such money was
5 appropriated or who fails or refuses to account for
6 or return any state or federal property or funds in
7 the officer's or enlisted person's possession shall
8 be guilty of ~~the-crime-of-embezzlement-by-bailee-and~~
9 ~~punished-accordingly~~ theft.

10 Sec. ____ . Section twenty-nine A point forty
11 (29A.40), Code 1977, is amended to read as follows:

12 29A.40 FALSE WEARING OF UNIFORM. No member of
13 the national guard shall wear the uniform thereof
14 while not on duty without permission from competent
15 authority. No person, firm, or corporation, other
16 than a military organization or the members ~~of-veterans~~
17 of such organizations organizing for the benefit of
18 all its members, shall incorporate under the name
19 of, or adopt any trade name which embodies the name
20 or designation, officially or generally recognized
21 as the name of a military organization now or
22 heretofore in existence, or any distinctive part of
23 such name. Any person found guilty of a violation
24 of any of the provisions of this section shall be
25 ~~punished-by-a-fine-of-not-less-than-fifty-dollars~~
26 ~~nor-more-than-one-hundred-dollars,-or-by-imprisonment~~
27 ~~in-the-county-jail-not-to-exceed-thirty-days~~ guilty
28 of a simple misdemeanor.

29 Any person who, without authority under the laws
30 of the United States or of one of the states, wears
31 the uniform of, or a distinctive part of the uniform
32 of the armed forces of the United States, shall be
33 guilty of a simple misdemeanor,-and-shall-be-punished
34 as-provided-in-this-section.

35 Sec. ____ . Section twenty-nine A point forty-two
36 (29A.42), Code 1977, is amended to read as follows:

37 29A.42 TRESPASS OR INTERFERENCE WITH OFFICIAL
38 ACTS. Any person who shall trespass upon any military
39 reservation, camp, or armory, in violation of the
40 orders of the commander thereof, or officer charged
41 with the responsibility therefor, ~~or~~ shall be guilty
42 of trespass and shall be punished as provided in
43 section seven hundred sixteen point eight (716.8)
44 of the Code Supplement.

45 Any person who shall molest, or interfere with
46 any member of the national guard, in the discharge
47 of his the member's duty, shall be guilty of a
48 misdemeanor interference with official acts which
49 is section seven hundred nineteen point one (719.1)
50 of the Code Supplement. The commanding officer of

1 such force may order the arrest of such person and
2 cause ~~him~~ the person to be delivered to a peace officer
3 or magistrate.

4 Sec. ____ Section twenty-nine A point forty-three
5 (29A.43), Code 1977, is amended to read as follows:

6 29A.43 DISCRIMINATION PROHIBITED--LEAVE OF ABSENCE.

7 No person, firm, or corporation, shall discriminate
8 against any officer or enlisted person of the national
9 guard or organized reserves of the armed forces of
10 the United States because of ~~his~~ membership therein.
11 No employer, or agent of any employer, shall discharge
12 any person from employment because of being an officer
13 or enlisted person of the military forces of the
14 state, or hinder or prevent the officer or elected
15 person from performing any military service such
16 person may be called upon to perform by proper
17 authority. Any member of the national guard or
18 organized reserves of the armed forces of the United
19 States ordered to temporary active duty for the purpose
20 of military training or ordered on active state
21 service, shall be entitled to a leave of absence
22 during the period of such duty or service from the
23 member's private employment, other than employment
24 of a temporary nature, and upon completion of such
25 duty or service the employer shall restore such person
26 to the position held prior to such leave of absence,
27 or employ such person in a similar position, provided,
28 however, that such person shall give evidence to the
29 employer of satisfactory completion of such training
30 or duty, and further provided that such person is
31 still qualified to perform the duties of such position.
32 Such period of absence shall be construed as an absence
33 with leave, and shall in no way affect the employee's
34 rights to vacation, sick leave, bonus, or other
35 employment benefits relating to the employee's
36 particular employment. Any person violating any of
37 the provisions of this section shall be ~~punished by~~
38 ~~a fine of not to exceed one hundred dollars, or by~~
39 ~~imprisonment in the county jail for a period of not~~
40 ~~to exceed thirty days~~ guilty of a simple misdemeanor.

41 Sec. ____ Section twenty-nine A point forty-four
42 (29A.44), Code 1977, is amended to read as follows:

43 29A.44 ASSAULT ON GUARDSMAN. Whenever the national
44 guard is called into service under proclamation of
45 the governor for the performance of any duties
46 contemplated in this chapter any person who willfully
47 assaults, or fires at, or throws any dangerous missiles
48 at, against, or upon any member or body of the national
49 guard so engaged, or civil officer or other persons
50 lawfully aiding or assisting them in the discharge

1 of their duties, shall be deemed guilty of a ~~felony~~
2 ~~and upon conviction shall be imprisoned in the state~~
3 ~~penitentiary for not more than two years~~ an aggravated
4 misdemeanor."

5 2. By renumbering as necessary.

075

1 Amend Senate File 2200 as amended, passed and
2 reprinted by the Senate as follows:

3 1. Page 7, by inserting after line 25 the follow-
4 ing sections:

5 "Sec. _____. Section three hundred twenty-one point
6 one hundred eighty (321.180), Code 1977, is amended
7 by adding the following new unnumbered paragraph:

8 NEW UNNUMBERED PARAGRAPH. A permittee shall not
9 be penalized for failing to have his or her permit
10 in immediate possession if the permittee produces
11 in court, within a reasonable time, an instruction
12 permit issued to him or her and valid at the time
13 of the permittee's arrest.

14 Sec. _____. Section three hundred twenty-one point
15 one hundred eighty-nine (321.189), subsection three
16 (3), Code 1977, is amended to read as follows:

17 3. CARRIED AND EXHIBITED. Every licensee shall
18 have his or her operator's or chauffeur's, or motorized
19 bicycle license or instruction permit in his immediate
20 possession at all times when operating a motor vehicle
21 and shall display the same, upon demand of a judicial
22 magistrate or district associate judge, a peace
23 officer, or a field deputy or examiner of the
24 department. However, no person charged with violating
25 this section shall be convicted if he or she pro-
26 duces in court, within a reasonable time, an operator's
27 or chauffeur's or motorized bicycle license or
28 instruction permit issued to him or her and valid
29 at the time of his the person's arrest."

30 2. Page 12, by inserting after line 20 the
31 following sections:

32 "Sec. _____. Section seven hundred twenty-two point
33 one (722.1), Code 1977 Supplement, is amended to read
34 as follows:

35 722.1 BRIBERY. A person who offers, promises
36 or gives anything of value or any benefit to any
37 person who is serving or has been elected, selected,
38 appointed, employed or otherwise engaged to serve
39 in a public capacity, including any public officer
40 or employee, any referee, juror or venireman, or any
41 witness in any judicial or arbitration hearing or
42 any official inquiry, or any member of a board of
43 arbitration, with-intent-to pursuant to an agreement
44 or arrangement or with the understanding that the
45 promise or thing of value or benefit will influence
46 the act, vote, opinion, judgment, decision or exercise
47 of discretion of such person with respect to his or
48 her services in such capacity commits a class D felony.
49 In addition, any person convicted under this section
50 shall be disqualified from holding public office under

1 the laws of this state.
2 Sec. _____. Section seven hundred twenty-two point
3 two (722.2), Code 1977 Supplement, is amended to read
4 as follows:

5 722.2 ACCEPTING BRIBE. Any person who is serving
6 or has been elected, selected, appointed, employed
7 or otherwise engaged to serve in a public capacity,
8 including any public officer or employee, any referee,
9 juror or venireman, or any witness in any judicial
10 or arbitration hearing or any official inquiry, or
11 any member of a board of arbitration, who shall solicit
12 or knowingly accept or receive any promise or anything
13 of value or any benefit given with-the-intent-to
14 pursuant to an agreement or arrangement or with the
15 understanding that the promise or thing of value or
16 benefit will influence the act, vote, opinion,
17 judgment, decision or exercise of discretion of such
18 person with respect to his or her services in such
19 capacity commits a class C felony. In addition, any
20 person convicted under this section shall be
21 disqualified from holding public office under the
22 laws of this state."

23 3. Page 17, by inserting after line 14 the
24 following section:

25 "Sec. _____. Section eight hundred five point eight
26 (805.8), subsection two (2), paragraph b, Code 1977
27 Supplement, is amended to read as follows:

28 b. For registration violations under sections
29 321.17, 321.32, 321.34, 321.37, 321.38, 321.41, and
30 ~~324-499~~ subsection three (3) of section three hundred
31 twenty-one point one hundred eighty-nine (321.189)
32 of the Code, the scheduled fine is five dollars.
33 For violations of ~~section-324-499~~ subsection three
34 (3) of section three hundred twenty-one point one
35 hundred eighty-nine (321.189) of the Code, the case
36 shall be dismissed without imposition of fine or costs
37 if a license valid at the time of the issuance of
38 the citation is presented by the defendant to the
39 magistrate or scheduled violations office."

40 4. By renumbering as necessary.

H-6075 FILED *Adopted* BY COMMITTEE ON JUDICIARY AND LAW
APRIL 17, 1978 *as amended* ENFORCEMENT, JESSE of Polk, Chair
by 6241 5/12
(p. 2634)
SENATE FILE 2200

H-5879

1 Amend Senate File 2200 as amended and passed by
2 the Senate as follows:

3 1. Page 11, by inserting after line 34 the
4 following section:

5 "Sec. _____. Section seven hundred nine point four
6 (709.4), Code 1977 Supplement, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 5. The person is six or more years
9 older than the other participant, and that other
10 participant is fourteen or fifteen years of age."

11 2. By renumbering as necessary.

H-5879 FILED *Not germane* BY SPEAR of Lee
APRIL 3, 1978 *revised*
Adopted 5/2 (p. 2131)

1 Amend the Committee on Judiciary and Law Enforcement
2 amendment, H-6075, to Senate File 2200 as amended,
3 passed and reprinted by the Senate as follows:

4 1. Page 1, by striking lines 43 through 45 and
5 inserting in lieu thereof the words "arbitration,
6 with intent to influence".

7 2. Page 2, by inserting after line 1 the follow-
8 ing paragraph:

9 "A person who offers, promises, or makes a contribu-
10 tion as defined in chapter fifty-six (56) of the Code
11 does not thereby commit bribery unless the person
12 offers, promises, or makes a contribution under an
13 agreement that either of the following will take
14 place:

15 1. The act, vote, opinion, judgment, decision,
16 or exercise of discretion of a person engaged in a
17 public capacity or of a candidate will be given in
18 a particular manner or upon a particular side of a
19 question, cause, or other proceeding which is or may
20 by law be brought before the person in his or her
21 current official capacity or before the candidate
22 in his or her future official capacity should the
23 candidate be elected to the office he or she is
24 seeking; or

25 2. A particular nomination or appointment will
26 be made by the person in his or her current official
27 capacity or by the candidate in his or her future
28 official capacity should the candidate be elected
29 to the office he or she is seeking."

30 3. Page 2, by striking lines 13 through 16 and
31 inserting in lieu thereof the words "of value or any
32 benefit given with the intent to influence the act,
33 vote, opinion,".

34 4. Page 2, line 22, by striking the word "state."
35 and inserting in lieu thereof the words "state."

36 5. Page 2, by inserting after line 22 the follow-
37 ing paragraph:

38 "A person who is engaged in a public capacity or
39 who is a candidate, who solicits or knowingly accepts
40 or receives a contribution as defined in chapter
41 fifty-six (56) of the Code does not thereby commit
42 the crime of accepting a bribe unless the person
43 solicits or knowingly accepts or receives a
44 contribution under an agreement that either of the
45 following will take place:

46 1. The person's act, vote, opinion, judgment,
47 decision, or exercise of discretion will be given
48 in a particular manner or upon a particular side of
49 a question, cause, or other proceeding which is or
50 may by law be brought before the person in his or

H-6305
Page 2

1 her current official capacity or in his or her future
2 official capacity should the candidate be elected
3 to the office he or she is seeking; or
4 2. A particular nomination or appointment will
5 be made by the person either in his or her current
6 official capacity or in his or her future official
7 capacity should the candidate be elected to the office
8 he or she is seeking."

H-6305 FILED *Out of order* BY CONLON of Muscatine
APRIL 25, 1978 *5/2 (p. 2122)*

SENATE FILE 2200

H-6241

1 Amend the Committee amendment, H-6075, to
2 Senate File 2200 as follows:
3 1. Page 1, by striking lines 30 through 50.
4 2. Page 2, by striking lines 1 through 22.

H-6241 FILED *Adopted 5/2* BY CONLON of Muscatine
APRIL 24, 1978 *(p. 2122)*

Motion to reconsider p. 2153 w/d 5/2 (p. 2634)

H-6454

1 Amend Senate File 2200 as amended, passed and
2 reprinted by the Senate as follows:

3 1. Page 23, by inserting after line 22 the follow-
4 ing:

5 "Sec. 67. Section seven hundred one point seven
6 (701.7), Code 1977 Supplement, is amended to read
7 as follows:

8 701.7 FELONY DEFINED AND CLASSIFIED. A public
9 offense is a felony of a particular class, when the
10 statute defining the crime declares it to be a felony.
11 Felonies are a capital felony, class A felonies, class
12 B felonies, class C felonies and class D felonies.
13 Where the statute defining the offense declares it
14 to be a felony, but does not state what class of
15 felony it is nor provides for a specific penalty,
16 such felony shall be a class D felony.

17 Sec. 68. Chapter seven hundred seven (707), Code
18 1977 Supplement, is amended by adding the following
19 new section:

20 NEW SECTION. CAPITAL MURDER. A person commits
21 capital murder if the person willfully and deliberately
22 kills another person in conjunction with committing
23 the offense of sexual abuse in the first degree against
24 the person killed.

25 Sec. 69. Section seven hundred seven point two
26 (707.2), unnumbered paragraph one (1), Code 1977
27 Supplement, is amended to read as follows:

28 707.2 MURDER IN THE FIRST DEGREE. A person
29 commits murder in the first degree when he or she
30 commits murder which is not capital murder and which
31 is committed under any of the following circumstances:

32 Sec. 70. Section seven hundred seven point three
33 (707.3), unnumbered paragraph one (1), Code 1977
34 Supplement, is amended to read as follows:

35 A person commits murder in the second degree when
36 he or she commits murder which is not capital murder
37 or murder in the first degree.

38 Sec. 71. Section seven hundred seven point four
39 (707.4), unnumbered paragraph two (2), Code 1977
40 Supplement, is amended to read as follows:

41 Voluntary manslaughter is an included offense under
42 an indictment for capital murder or murder in the
43 first or second degree.

44 Sec. 72. Section seven hundred seven point five
45 (707.5), subsection two (2), unnumbered paragraph
46 two (2), Code 1977 Supplement, is amended to read
47 as follows:

48 Involuntary manslaughter as defined in this section
49 is an included offense under an indictment for capital
50 murder or murder in the first or second degree or

1 voluntary manslaughter.

2 Sec. 73. Section eight hundred two point one
3 (802.1), Code 1977 Supplement, is amended to read
4 as follows:

5 802.1 MURDER. A prosecution for capital murder
6 or murder in the first or second degree may be
7 commenced at any time after the death of the victim.

8 Sec. 74. Section eight hundred eleven point one
9 (811.1), Code 1977 Supplement, is amended to read
10 as follows:

11 811.1 BAILABLE AND NONBAILABLE OFFENSES. All
12 defendants are bailable both before and after
13 conviction, by sufficient surety, or subject to release
14 upon condition or on their own recognizance, except
15 that a defendant convicted of capital murder or a
16 class A felony shall not be admitted to bail while
17 appealing such conviction or seeking post-conviction
18 relief.

19 Sec. 75. Section eight hundred thirteen point
20 two (813.2), Code 1977 Supplement, is amended by
21 adding the following new sections as rules of criminal
22 procedure:

23 NEW SECTION. Rule 31.1 CAPITAL MURDER--PROCEDURE.

24 1. Upon a finding that the defendant is guilty
25 of capital murder, the court shall conduct a separate
26 sentencing proceeding to determine whether the
27 defendant shall be sentenced to death or to life
28 imprisonment. The proceeding shall be conducted in
29 the trial court before the trier of fact as soon as
30 practicable. In the proceeding, additional evidence
31 may be presented as to any matter which is relevant
32 to sentence. The court shall receive when offered
33 any evidence that is required by the rules of criminal
34 procedure. This subsection shall not be construed
35 to authorize the introduction of any evidence secured
36 in violation of the Constitution of the United States
37 or of the state of Iowa. The state and the defendant
38 or his or her counsel shall be permitted to cross-
39 examine witnesses and to present argument for or
40 against a sentence of death.

41 2. On conclusion of the presentation of the
42 evidence, the court shall submit the following issues
43 to the jury:

44 a. Whether the actual conduct of the defendant
45 was committed with the reasonable expectation that
46 the death of the deceased or another would result;
47 and

48 b. Whether there is a probability that in the
49 future the defendant will commit criminal acts of
50 violence that will constitute a continuing threat

1 to society.
2 In the event the case is not tried to a jury, the
3 court shall determine the issues.
4 3. The state must prove each issue beyond a
5 reasonable doubt, and the jury, or the court if there
6 is no jury, shall return a special verdict of "yes"
7 or "no" on each issue.
8 4. If the case is tried to a jury, the court shall
9 charge the jury that:
10 a. It shall answer any issue "yes" if it agrees
11 unanimously; and
12 b. It must answer any issue "no" if the jurors
13 unanimously agree that the answer is "no" or if the
14 jurors do not unanimously agree that the answer is
15 "yes".
16 5. If the jury, or the court in actions not tried
17 to a jury, returns an affirmative finding on both
18 issues, the court shall sentence the defendant to
19 death. If the jury or the court returns a negative
20 finding on any issue, the court shall sentence the
21 defendant to the custody of the division of adult
22 corrections for confinement in the state penitentiary
23 for life.
24 6. The provisions of chapters nine hundred one
25 (901) through nine hundred nine (909) of the Code
26 Supplement shall not apply to any conviction of capital
27 murder when the defendant is sentenced to death.
28 If the defendant is sentenced to life imprisonment
29 chapter nine hundred two (902) of the Code Supplement
30 shall apply as if the conviction were of a class A
31 felony.
32 NEW SECTION. Rule 31.2 EVIDENCE AT SENTENCING
33 HEARING IN CAPITAL MURDER CASES.
34 1. In a proceeding to determine whether the
35 sentence shall be death or life imprisonment, evidence
36 may be presented as to any matter which the court
37 deems relevant to sentence, including but not limited
38 to the nature, circumstances and manner of completion
39 of the murder, and the defendant's character,
40 background, history, mental and physical condition.
41 2. When offered by the defendant, the court shall
42 admit any relevant evidence respecting any of the
43 following mitigating circumstances:
44 a. The defendant has no significant history of
45 prior criminal activity.
46 b. The victim was a participant in the killing
47 or consented to the killing.
48 c. The killing was committed under circumstances
49 which the defendant believed to provide a moral
50 justification or extenuation for his or her conduct.

1 d. The defendant was an accomplice in a killing
2 committed by another person and the defendant's
3 participation was relatively minor.

4 e. The youthfulness of the defendant at the time
5 of the crime.

6 NEW SECTION. Rule 31.3 AUTOMATIC REVIEW--STAY
7 OF JUDGMENT.

8 1. A judgment of conviction and sentence of death
9 shall be reviewed automatically in the manner provided
10 in section seventy-six (76) of this Act, and the Iowa
11 supreme court shall have exclusive jurisdiction for
12 review.

13 2. Upon entry of judgment and sentence of death,
14 the sentencing court shall prepare a complete record
15 and transcript of the action in the manner provided
16 in the rules of criminal procedure and shall docket
17 the same with the clerk of the supreme court.

18 3. The judgment and sentence of the trial court
19 is stayed as a matter of law from the time of its
20 entry until the judgment of the supreme court is
21 certified to and entered by the trial court. Upon
22 entry of a judgment of the supreme court which affirms
23 the conviction and sentence, the stay of the judgment
24 and sentence terminates as a matter of law.

25 NEW SECTION. Rule 31.4 ISSUANCE OF WARRANT.

26 1. Upon entry by the district court of the judgment
27 of the supreme court affirming a judgment and sentence
28 of death, a district judge shall within five days
29 thereafter issue a warrant under the seal of the court
30 for the execution of the sentence of death. The
31 warrant shall specifically set forth the offense and
32 the fact of conviction, shall state the judgment and
33 sentence of the court, shall state that the judgment
34 and sentence was affirmed by the supreme court and
35 the date of entry of judgment of the supreme court
36 in the district court, and shall specify the date
37 fixed for execution of the defendant which shall be
38 not less than fifty nor more than sixty days after
39 the date of entry in the district court of the judgment
40 of the supreme court affirming the judgment and
41 sentence of death. The warrant shall be directed
42 to the director of the division of adult corrections
43 commanding him or her to cause the same to be carried
44 into execution on the date specified. The district
45 court shall deliver the warrant to the sheriff of
46 the county in which judgment of conviction was entered
47 and the sheriff shall deliver the warrant and the
48 defendant to the custody of the division of adult
49 corrections for confinement in the state penitentiary.
50 The director of the division of adult corrections

1 shall acknowledge receipt of the warrant and defendant,
2 and the sheriff shall return same to the office of
3 the clerk of court from which the warrant was issued.

4 2. Immediately after issuance of a warrant ordering
5 a sentence of death, the clerk of the court issuing
6 the warrant shall transmit by mail to the governor
7 copies of the indictment, the plea, the verdict and
8 special findings, the judgment of the supreme court,
9 and the complete transcript.

10 Sec. 76. Chapter eight hundred fourteen (814),
11 Code 1977 Supplement, is amended by adding the
12 following new section:

13 NEW SECTION. REVIEW OF DEATH SENTENCE.

14 1. In any case in which a sentence of death is
15 imposed, the supreme court must review the judgment
16 and sentence.

17 2. A review by the supreme court of a judgment
18 and sentence imposing the punishment of death shall
19 have priority over all other criminal and other actions
20 pending before the supreme court.

21 3. The supreme court shall review the trial and
22 judgment, and separately shall review the sentencing
23 proceeding. Upon determining that errors did not
24 occur at the trial which would require reversal or
25 modification of the judgment, the supreme court shall
26 proceed to determine if the sentence of death is
27 lawfully imposed. In its review of the sentencing
28 proceeding the supreme court shall determine the
29 following:

30 a. That the trial court did not commit prejudicial
31 error in admitting or refusing to admit evidence
32 relevant to the issue of whether or not punishment
33 of death should be imposed;

34 b. That the special findings required under
35 subsection two (2) of Rule thirty-one point one (31.1)
36 of the rules of criminal procedure are supported by
37 the evidence.

38 c. That the sentence of death was not imposed
39 capriciously or under the influence of prejudice or
40 other arbitrary factor, considering both the
41 circumstances of the crime and the defendant.

42 4. If the supreme court determines that the
43 sentence of death was not lawfully imposed the court
44 shall set aside the sentence and shall remand the
45 case to the trial court for imposition of a sentence
46 of life imprisonment.

47 5. If the supreme court affirms the judgment and
48 sentence of death, the supreme court clerk shall
49 certify the judgment of the supreme court under the
50 seal of the court to the clerk of the trial court.

1 Sec. 77. Code 1977 Supplement is amended by adding
2 the following new sections as a new chapter:
3 NEW SECTION. TIME AND MANNER OF EXECUTION.
4 1. A sentence of death shall be executed pursuant
5 to warrant therefor at any time before the time of
6 sunrise on the day set for the execution by causing
7 to pass through the body of the person a current of
8 electricity of sufficient intensity to cause death,
9 and by the application and continuance of such current
10 through the body of the person until dead.
11 2. The director of the division of adult
12 corrections shall cause the execution. The executioner
13 shall be the person appointed by the director for
14 that purpose.
15 3. The execution shall take place within the
16 confines of the state penitentiary in an enclosed
17 facility arranged for that purpose.
18 4. The following persons may be present at the
19 execution: The director of the division or a deputy;
20 the warden of the state penitentiary or a deputy;
21 the executioner, and such persons as may be necessary
22 to assist him or her in conducting the execution;
23 two physicians, including the prison physician; the
24 spiritual advisor, if any, of the condemned; the
25 chaplains of the division of adult corrections; a
26 district judge; the sheriff or a deputy sheriff of
27 the county in which the state penitentiary is situated;
28 and any of the relatives or friends of the condemned
29 person that he or she may request, not exceeding five
30 in number.
31 5. Persons other than those specifically designated
32 in subsection four (4) of this section, or those
33 specifically requested by the defendant under the
34 authority of subsection four (4) of this section,
35 shall not be present at the execution. Notwithstanding
36 subsection four (4) of this section, a person shall
37 not be present at an execution if the person is less
38 than eighteen years of age, or if the person is in
39 possession of any device for receiving, transmitting
40 or recording sounds or pictures.
41 NEW SECTION. DELAY OF EXECUTION--NEW WARRANT.
42 1. If the condemned person escapes after sentence
43 and before his or her delivery to the division of
44 adult corrections, and is not arrested until after
45 the time fixed for execution, the court by whom the
46 condemned was sentenced shall again appoint a time
47 for the execution, not more than thirty days after
48 issuance of a new warrant.
49 2. If the condemned person escapes after his or
50 her delivery to the division of adult corrections,

1 and is not arrested before the time appointed for
2 execution, the director shall certify the facts of
3 escape and recapture to the court in which sentence
4 was passed, and the court shall appoint a time for
5 the execution which shall be not more than thirty
6 days after issuance of a new warrant.

7 3. If for any other reason execution of the death
8 penalty is delayed beyond the date specified in the
9 warrant of execution, the court which originally
10 sentenced the defendant shall establish a later date
11 for execution, which shall not be more than thirty
12 days after issuance of the warrant.

13 NEW SECTION. RETURN OF WARRANT. On the arrival
14 of the date set for execution the division shall cause
15 the execution. In case of the death of any condemned
16 person before the time for execution arrives, or if
17 the person is pardoned or his or her sentence is
18 commuted by the governor, no execution shall be had.
19 In all cases, the director of the division of adult
20 corrections shall return the warrant and certificate
21 with a statement of his or her proceedings endorsed
22 thereon. In the event of execution the return shall
23 be accompanied by a statement showing what disposition
24 was made of the body. Return shall be made to the
25 clerk of the court in which the sentence was passed,
26 who shall record the warrant and return in the docket
27 of the court.

28 NEW SECTION. DISPOSITION OF BODY. The body of
29 a person who has been executed shall be embalmed
30 immediately as directed by the director of the division
31 of adult corrections at state expense. If the body
32 is demanded or requested by a relative within forty-
33 eight hours after execution it shall be delivered
34 to the relative who shall pay the costs of
35 transportation. If the body is not delivered to a
36 relative the director shall cause the body to be
37 buried, and the costs of burial shall be paid by the
38 division of adult corrections.

39 Sec. 78. Sections sixty-seven (67) through seventy-
40 seven (77) of this Act shall take effect January 1,
41 1979. The remaining sections of this Act shall take
42 effect as otherwise provided by law."

43 2. Amend the title, by striking lines 1 and 2
44 and inserting in lieu thereof the following: "An Act
45 relating to the Iowa criminal code and providing
46 penalties, including but not limited to the penalty
47 of death."

H-6454 FILED *Not german* BY
MAY 2, 1978 *5/2 (p. 214)*

- | | |
|-------------------------|-----------------------|
| SPENCER of Clay | BRANSTAD of Winnebago |
| MILLER of Buchanan | PELLETT of Cass |
| WOODS of Polk | TOFTE of Winneshiek |
| WYCKOFF of Benton | LIND of Black Hawk |
| GILSON of Guthrie | DAGGETT of Adams |
| DUNTON of Keokuk | BROCKETT of Marshall |
| BINNEBOESE of Plymouth | KOOGLER of Mahaska |
| HOWELL of Floyd | STEPHENS of Plymouth |
| SPEAR of Des Moines | LINDEEN of Henry |
| GETTINGS of Wapello | BAKER of Buena Vista |
| OXLEY of Linn | HALVORSON of Clayton |
| CONLON of Muscatine | HARVEY of Scott |
| SMALLEY of Polk | LAGESCHULTE of Bremer |
| DANKER of Pottawattamie | PONCY of Wapello |

SENATE FILE 2200

H-6465

1 Amend amendment H-6458 to Senate File 2200 as
2 follows:
3 1. Page 1, lines 11 and 12, by striking the
4 words "which shall be the ordinary and customary
5 charges for like services in the community" and
6 by inserting in lieu thereof the words "~~which shall~~
7 ~~be the ordinary and customary charges for like~~
8 ~~services in the community~~".

H-6465 FILED *Last 5/2* BY SCHNEKLOTH of Scott
MAY 2, 1978 (*p. 2134*)

SENATE FILE 2200

H-6458

1 Amend Senate File 2200 as amended, passed and
2 reprinted by the Senate as follows:
3 1. Page 18, by inserting after line 13 the
4 following section:
5 "Sec. ____ . Section eight hundred fifteen point
6 seven (815.7), Code 1977 Supplement, is amended to
7 read as follows:
8 815.7 FEES TO ATTORNEYS. An attorney appointed
9 by the court to represent any person charged with
10 a crime in this state shall be entitled to a reasonable
11 compensation which shall be the ordinary and customary
12 charges for like services in the community to be
13 decided in each case by a judge of the district judge
14 court, including such sum or sums as the court may
15 determine are necessary for investigation in the
16 interests of justice and in the event of appeal the
17 cost of obtaining the transcript of the trial and
18 the printing of the trial record and necessary briefs
19 in behalf of the defendant. Such attorney need not
20 follow the case into another county or into the
21 appellate court unless so directed by the court at
22 the request of the defendant, where grounds for further
23 litigation are not capricious or unreasonable, but
24 if such attorney does so his or her fee shall be
25 determined accordingly. Only one attorney fee shall
26 be so awarded in any one case except that in class
27 A felony cases, two may be authorized."
28 2. By renumbering as necessary.

6465 H-6458 FILED *Adopted 5/2* BY DOYLE of Woodbury
MAY 2, 1978 (*p. 2134*)

H-6450

1 Amend Senate File 2200 as amended, passed, and
2 reprinted by the Senate as follows:

3 1. Page 7, by inserting after line 25 the follow-
4 ing sections:

5 "Sec. _____. Section two hundred four point one
6 hundred one (204.101), subsection one (1), paragraph
7 b, unnumbered paragraph two (2), Code 1977, is amended
8 to read as follows:

9 Nothing contained in this chapter shall be construed
10 to prevent a physician, dentist, podiatrist or
11 veterinarian from delegating the administration of
12 controlled substances under this chapter to a nurse,
13 or intern, or other qualified individual, or, as to
14 veterinarians, to an orderly or assistant, under his
15 or her direction and supervision; all pursuant to
16 rules adopted by the board.

17 Sec. _____. Section two hundred seventeen point
18 thirty (217.30), subsection seven (7), Code 1977,
19 is amended to read as follows:

20 7. Violation of this section shall constitute
21 a serious misdemeanor punishable by a fine not to
22 exceed two thousand dollars or by imprisonment in
23 the county jail not to exceed one year, or by both
24 such fine and imprisonment.

25 Sec. _____. Section two hundred seventeen point
26 thirty (217.30), Code 1977, is amended by adding the
27 following new subsection:

28 NEW SUBSECTION. The provisions of this section
29 shall take precedence over section seventeen A point
30 twelve (17A.12), subsection seven (7), of the Code."

31 2. Page 21, by inserting after line 12 the follow-
32 ing section:

33 "Sec. _____. Section nine hundred seven point four
34 (907.4), Code 1977 Supplement, is amended to read
35 as follows:

36 907.4 DEFERRED JUDGMENT DOCKET. Any deferment
37 of judgment under section 907.3 shall be reported
38 promptly by the clerk of the district court to the
39 supreme court administrator who shall maintain a
40 permanent record thereof including the name of the
41 defendant, the district court docket number, the
42 nature of the offense, and the date of the deferment.
43 Before granting deferment in any case, the court shall
44 request of the supreme court administrator a search
45 of the deferred judgment docket and shall consider
46 any prior record of a deferment of judgment against
47 the defendant. The permanent record provided for
48 in this section shall constitute a confidential record
49 exempted from public access under section 68A.7 and
50 shall be available only to justices of the supreme

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Page 2

1 court, judges of the court of appeals, district judges,
2 district associate judges, and judicial magistrates
3 requesting information pursuant to this section or
4 the designee of such justice, judge, or magistrate."
5

3. By renumbering as necessary.

SENATE FILE 2200

H-6404

- 1 Amend Senate File 2200 as amended, passed and
2 reprinted by the Senate as follows:
3 1. Page 4, by inserting after line 16 the follow-
4 ing section:
5 "Sec. _____. Section one hundred twenty-three point
6 ninety (123.90), Code 1977, is amended to read as
7 follows:
8 123.90 PENALTIES GENERALLY. Unless other penalties
9 are herein provided, any person, except a person under
10 legal age, who violates any of the provisions of this
11 chapter, or who makes a false statement concerning
12 any material fact in submitting an application for
13 a permit or license, shall be ~~punished by a fine of~~
14 ~~not more than one thousand dollars, or by imprisonment~~
15 ~~in the county jail for not more than one year, or~~
16 ~~by both such fine and imprisonment~~ guilty of a serious
17 misdemeanor. Any person under legal age who violates
18 any of the provisions of this chapter shall upon
19 conviction be ~~punished by a fine not to exceed one~~
20 ~~hundred dollars or by imprisonment in the county jail~~
21 ~~not to exceed thirty days~~ guilty of a simple
22 misdemeanor."
23 2. By renumbering sections as necessary.

H-6404 FILED *Adopted 5/2* BY JESSE of Polk
APRIL 28, 1978 (*p. 2126*)

SENATE FILE 2200

H-6405

- 1 Amend Senate File 2200 as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 12, by inserting after line 20 the
4 following section:
5 "Sec. _____. Section seven hundred twenty-five point
6 nine (725.9), Code 1977 Supplement, is amended to
7 read as follows:
8 725.9 POSSESSION OF GAMBLING DEVICES PROHIBITED.
9 ~~No one shall, A person who~~ in any manner or for any
10 purpose whatever, except under proceeding to destroy
11 the same, ~~have, keep, or hold~~ has in possession or
12 control any gambling device shall be guilty of a
13 serious misdemeanor. The term "gambling device" means
14 and includes every device used or adapted or designed
15 to be used for gambling. Roulette wheels, klondike
16 tables, ~~punchbeads~~ punchboards, faro layouts, keno
17 layouts, numbers tickets, slot machines, pinball
18 machines, push cards, jar tickets and pull-tabs are
19 gambling devices per se. The term "gambling device"
20 does not include any device regularly manufactured
21 and offered for sale and sold as a toy, except that
22 any use of such a device for gambling purposes
23 constitutes unlawful gambling."
24 2. By renumbering sections as necessary.

H-6405 FILED *Adopted 5/2* BY JESSE of Polk
APRIL 28, 1978 (*p. 2133*)

SENATE FILE 2200

H-6670

1 Amend Senate File 2200 as amended, passed and
2 reprinted by the Senate as follows:

3 1. Page 11, by inserting after line 34 the
4 following section:

5 "Sec. ____ . Section seven hundred ten point six
6 (710.6), Code 1977 Supplement, is amended to read
7 as follows:

8 710.6 VIOLATING CUSTODIAL ORDER. Any relative
9 of a child who, acting in violation of any order of
10 any court which fixes, permanently or temporarily,
11 the custody of such child in another, takes and removes
12 such child and ~~removes him or her~~ from the state,
13 and conceals the child's whereabouts without the
14 consent of the person having lawful custody, commits
15 a class D felony.

16 Any parent of a child living apart from the other
17 parent who takes and conceals that child from another
18 within the state in violation of a custodial order
19 and without the other parent's consent shall be guilty
20 of a serious misdemeanor.

21 Any parent of a child living apart from the other
22 parent who conceals that child in violation of a court
23 order granting visitation rights and without the other
24 parent's consent, shall be guilty of a serious
25 misdemeanor."

26 2. By renumbering sections as necessary.

H-6670 FILED *Adopted 5/12* BY NEWHARD of Jones
MAY 11, 1978 *(p. 2635)* JESSE of Polk

1 Amend Senate File 2200 as amended, passed, and
2 reprinted by the Senate as follows:

3 1. Page 23, by inserting after line 19 the
4 following sections:

5 "Sec. _____. Acts of the Sixty-seventh General
6 Assembly, 1977 Session, chapter eighty-seven (87),
7 section one (1), unnumbered paragraph one (1), is
8 amended to read as follows:

9 It is the intent of this Act that there be made
10 available within the state correctional institutions
11 opportunities for employment of inmates in meaningful
12 jobs at ~~wages commensurate with those paid persons~~
13 ~~employed in similar jobs outside the correctional~~
14 ~~institutions~~ with the following objectives:

15 Sec. _____. Acts of the Sixty-seventh General
16 Assembly, 1977 Session, chapter eighty-seven (87),
17 section ten (10), subsection three (3), is amended
18 to read as follows:

19 3. Except as prohibited by applicable provisions
20 of the United States Code, inmates of adult
21 correctional institutions of this state may be employed
22 in the manufacture and processing of products for
23 introduction into interstate or intrastate commerce,
24 so long as they are paid ~~no less than the prevailing~~
25 minimum wage wages commensurate with those paid persons
26 employed in similar jobs outside the correctional
27 institutions.

28 Sec. _____. Acts of the Sixty-seventh General
29 Assembly, 1977 Session, chapter eighty-seven (87),
30 section twelve (12), is amended to read as follows:

31 Sec. 12. Effective July 1, 1978, and
32 notwithstanding any other provisions of this Act,
33 goods made available by Iowa State Industries shall
34 be restricted to items, materials, supplies and
35 equipment which are formulated and/or manufactured
36 by Iowa State Industries and shall not include goods,
37 materials, supplies or equipment which are merely
38 purchased by Iowa State Industries for repacking or
39 resale except with approval of the state director
40 when such repacking for resale items are directly
41 related to product lines."

42 2. By renumbering as necessary.

H-6557 FILED *Adopted 5/12* BY BRUNOW of Appanoose
MAY 5, 1978 (*p. 2636*) DOYLE of Woodbury

SENATE FILE 2200

H-6568

1 Amend Senate File 2200 as amended, passed and
2 reprinted by the Senate as follows:

3 1. Page 8, by inserting after line 4 the follow-
4 ing section:

5 "Sec. _____. Section three hundred twenty-one point
6 three hundred eighty-three (321.383), subsection three
7 (3), unnumbered paragraph two (2), Code 1977, is
8 amended to read as follows:

9 Any person who violates any provision of this
10 section shall be fined ~~not more than five dollars~~
11 as provided in section eight hundred five point eight
12 (805.8), subsection two (2), paragraph d, of the Code
13 Supplement."

14 2. By renumbering sections as necessary.

H-6568 FILED *Adopted 5/12* BY JESSE of Polk
MAY 8, 1978 (*p. 2635*)

HOUSE AMENDMENT TO SENATE FILE 2200

S-5926

1 Amend Senate File 2200 as amended, passed and
2 reprinted by the Senate as follows:

3 1. Page 1, by inserting after line 7 the follow-
4 ing sections:

5 "Sec. _____. Section twenty-nine A point thirty-
6 five (29A.35), Code 1977, is amended to read as
7 follows:

8 29A.35 USE FOR MILITARY ONLY. All arms, clothing,
9 equipment, and other military property furnished or
10 issued by the federal government or the state or for
11 which an allowance has been made, shall be used for
12 military purposes only, and each officer and enlisted
13 person upon being separated from the military forces
14 of the state, or upon demand of the commanding officer,
15 shall forthwith surrender such military property in
16 the officer's or enlisted person's possession to said
17 commanding officer. Any member of the national guard
18 who shall neglect to return to the armory of the unit,
19 or place in charge of the commanding officer of the
20 organization to which the member belongs, any arms,
21 clothing, equipment, or other military property or
22 portion thereof, belonging to the federal government
23 or the state, upon being notified by said commanding
24 officer to do so, shall be guilty of a serious
25 misdemeanor.

26 Sec. _____. Section twenty-nine A point thirty-six
27 (29A.36), Code 1977, is amended to read as follows:

28 29A.36 INJURY OR DESTRUCTION OF PROPERTY. Every
29 person who shall willfully or wantonly injure or
30 destroy any articles of arms, clothing, equipment,
31 or other military property furnished or issued by
32 the federal government or the state, and refuses to
33 make good such injury or loss; or who shall sell,
34 dispose of, secrete or remove the same with intent
35 to sell or dispose of it, shall be ~~punished by a fine~~
36 ~~of not less than one hundred dollars nor more than~~
37 ~~five hundred dollars, or be imprisoned in the county~~
38 ~~jail for not more than four months, or by both such~~
39 ~~fine and imprisonment~~ guilty of a simple misdemeanor.

40 Sec. _____. Section twenty-nine A point thirty-eight
41 (29A.38), Code 1977, is amended to read as follows:

42 29A.38 SERIOUS MISDEMEANORS. Any officer or
43 enlisted person of the national guard who knowingly
44 makes any false certificate of muster or false return
45 of federal or state property or funds in the officer's
46 or enlisted person's possession shall be guilty of
47 a serious misdemeanor.

48 Sec. _____. Section twenty-nine A point thirty-nine
49 (29A.39), Code 1977, is amended to read as follows:

50 29A.39 EMBEZZLEMENT THEFT. Any officer or enlisted

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1 person of the national guard who willfully neglects
2 or refuses to apply all money, in the officer's or
3 enlisted person's possession drawn from the state
4 treasury, to the purpose for which such money was
5 appropriated or who fails or refuses to account for
6 or return any state or federal property or funds in
7 the officer's or enlisted person's possession shall
8 be guilty of ~~the crime of embezzlement by bailee and~~
9 ~~punished accordingly~~ theft.

10 Sec. ____ . Section twenty-nine A point forty
11 (29A.40), Code 1977, is amended to read as follows:

12 29A.40 FALSE WEARING OF UNIFORM. No member of
13 the national guard shall wear the uniform thereof
14 while not on duty without permission from competent
15 authority. No person, firm, or corporation, other
16 than a military organization or the members ~~of veterans~~
17 of such organizations organizing for the benefit of
18 all its members, shall incorporate under the name
19 of, or adopt any trade name which embodies the name
20 or designation, officially or generally recognized
21 as the name of a military organization now or
22 heretofore in existence, or any distinctive part of
23 such name. Any person found guilty of a violation
24 of any of the provisions of this section shall be
25 ~~punished by a fine of not less than fifty dollars~~
26 ~~nor more than one hundred dollars, or by imprisonment~~
27 ~~in the county jail not to exceed thirty days~~ guilty
28 of a simple misdemeanor.

29 Any person who, without authority under the laws
30 of the United States or of one of the states, wears
31 the uniform of, or a distinctive part of the uniform
32 of the armed forces of the United States, shall be
33 guilty of a simple misdemeanor, and shall be punished
34 as provided in this section.

35 Sec. ____ . Section twenty-nine A point forty-two
36 (29A.42), Code 1977, is amended to read as follows:

37 29A.42 TRESPASS OR INTERFERENCE WITH OFFICIAL
38 ACTS. Any person who shall trespass upon any military
39 reservation, camp, or armory, in violation of the
40 orders of the commander thereof, or officer charged
41 with the responsibility therefor, ~~or~~ shall be guilty
42 of trespass and shall be punished as provided in
43 section seven hundred sixteen point eight (716.8)
44 of the Code Supplement.

45 Any person who shall molest, or interfere with
46 any member of the national guard, in the discharge
47 of ~~his~~ the member's duty, shall be guilty of a
48 misdemeanor interference with official acts which
49 is section seven hundred nineteen point one (719.1)
50 of the Code Supplement. The commanding officer of

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1 such force may order the arrest of such person and
2 cause ~~him~~ the person to be delivered to a peace officer
3 or magistrate.

4 Sec. ____ . Section twenty-nine A point forty-three
5 (29A.43), Code 1977, is amended to read as follows:
6 29A.43 DISCRIMINATION PROHIBITED--LEAVE OF ABSENCE.
7 No person, firm, or corporation, shall discriminate
8 against any officer or enlisted person of the national
9 guard or organized reserves of the armed forces of
10 the United States because of ~~his~~ membership therein.
11 No employer, or agent of any employer, shall discharge
12 any person from employment because of being an officer
13 or enlisted person of the military forces of the
14 state, or hinder or prevent the officer or elected
15 person from performing any military service such
16 person may be called upon to perform by proper
17 authority. Any member of the national guard or
18 organized reserves of the armed forces of the United
19 States ordered to temporary active duty for the purpose
20 of military training or ordered on active state
21 service, shall be entitled to a leave of absence
22 during the period of such duty or service from the
23 member's private employment, other than employment
24 of a temporary nature, and upon completion of such
25 duty or service the employer shall restore such person
26 to the position held prior to such leave of absence,
27 or employ such person in a similar position, provided,
28 however, that such person shall give evidence to the
29 employer of satisfactory completion of such training
30 or duty, and further provided that such person is
31 still qualified to perform the duties of such position.
32 Such period of absence shall be construed as an absence
33 with leave, and shall in no way affect the employee's
34 rights to vacation, sick leave, bonus, or other
35 employment benefits relating to the employee's
36 particular employment. Any person violating any of
37 the provisions of this section shall be ~~penalized by~~
38 ~~a fine of not to exceed one hundred dollars, or by~~
39 ~~imprisonment in the county jail for a period of not~~
40 ~~to exceed thirty days~~ guilty of a simple misdemeanor.

41 Sec. ____ . Section twenty-nine A point forty-four
42 (29A.44), Code 1977, is amended to read as follows:
43 29A.44 ASSAULT ON GUARDSMAN. Whenever the national
44 guard is called into service under proclamation of
45 the governor for the performance of any duties
46 contemplated in this chapter any person who willfully
47 assaults, or fires at, or throws any dangerous missiles
48 at, against, or upon any member or body of the national
49 guard so engaged, or civil officer or other persons
50 lawfully aiding or assisting them in the discharge

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1 of their duties, shall be deemed guilty of a felony
2 ~~and upon conviction shall be imprisoned in the state~~
3 ~~penitentiary for not more than two years~~ an aggravated
4 misdemeanor."

5 2. Page 4, by inserting after line 16 the follow-
6 ing section:

7 "Sec. _____. Section one hundred twenty-three point
8 ninety (123.90), Code 1977, is amended to read as
9 follows:

10 123.90 PENALTIES GENERALLY. Unless other penalties
11 are herein provided, any person, except a person under
12 legal age, who violates any of the provisions of this
13 chapter, or who makes a false statement concerning
14 any material fact in submitting an application for
15 a permit or license, shall be ~~punished by a fine of~~
16 ~~not more than one thousand dollars, or by imprisonment~~
17 ~~in the county jail for not more than one year, or~~
18 ~~by both such fine and imprisonment~~ guilty of a serious
19 misdemeanor. Any person under legal age who violates
20 any of the provisions of this chapter shall upon
21 conviction be ~~punished by a fine not to exceed one~~
22 ~~hundred dollars or by imprisonment in the county jail~~
23 ~~not to exceed thirty days~~ guilty of a simple
24 misdemeanor."

25 3. Page 7, by inserting after line 25 the follow-
26 ing sections:

27 "Sec. _____. Section two hundred four point one
28 hundred one (204.101), subsection one (1), paragraph
29 b, unnumbered paragraph two (2), Code 1977, is amended
30 to read as follows:

31 Nothing contained in this chapter shall be construed
32 to prevent a physician, dentist, podiatrist or
33 veterinarian from delegating the administration of
34 controlled substances under this chapter to a nurse,
35 or intern, or other qualified individual, or, as to
36 veterinarians, to an orderly or assistant, under his
37 or her direction and supervision; all pursuant to
38 rules adopted by the board.

39 Sec. _____. Section two hundred seventeen point
40 thirty (217.30), subsection seven (7), Code 1977,
41 is amended to read as follows:

42 7. Violation of this section shall constitute
43 a serious misdemeanor ~~punishable by a fine not to~~
44 ~~exceed two thousand dollars or by imprisonment in~~
45 ~~the county jail not to exceed one year, or by both~~
46 ~~such fine and imprisonment.~~

47 Sec. _____. Section two hundred seventeen point
48 thirty (217.30), Code 1977, is amended by adding the
49 following new subsection:

50 NEW SUBSECTION. The provisions of this section

1 shall take precedence over section seventeen A point
2 twelve (17A.12), subsection seven (7), of the Code."

3 4. Page 7, by inserting after line 25 the following
4 section:

5 "Sec. _____. Chapter three hundred five A (305A),
6 Code 1977, is amended by adding the following new
7 section:

8 NEW SECTION. AUTHORITY TO DENY PERMISSION TO
9 DISINTER HUMAN REMAINS. The state archaeologist shall
10 have the authority to deny permission to disinter
11 human remains that he or she determines have state
12 and national significance from an historical or
13 scientific standpoint for the inspiration and benefit
14 of the people of the United States."

15 5. Page 7, by inserting after line 25 the follow-
16 ing section:

17 "Sec. _____. Section three hundred twenty-one point
18 ninety-seven (321.97), Code 1977 Supplement, is amended
19 to read as follows:

20 321.97 FRAUDULENT APPLICATIONS. Any person who
21 fraudulently uses a false or fictitious name in any
22 application for the registration of, or certificate
23 of title to, a vehicle or knowingly makes a false
24 statement or knowingly conceals a material fact or
25 otherwise commits a fraud in any such application
26 is guilty of a fraudulent practice."

27 6. Page 7, by inserting after line 25 the follow-
28 ing sections:

29 "Sec. _____. Section three hundred twenty-one point
30 one hundred eighty (321.180), Code 1977, is amended
31 by adding the following new unnumbered paragraph:

32 NEW UNNUMBERED PARAGRAPH. A permittee shall not
33 be penalized for failing to have his or her permit
34 in immediate possession if the permittee produces
35 in court, within a reasonable time, an instruction
36 permit issued to him or her and valid at the time
37 of the permittee's arrest.

38 Sec. _____. Section three hundred twenty-one point
39 one hundred eighty-nine (321.189), subsection three
40 (3), Code 1977, is amended to read as follows:

41 3. CARRIED AND EXHIBITED. Every licensee shall
42 have his or her operator's or chauffeur's, or motorized
43 bicycle license or instruction permit in his immediate
44 possession at all times when operating a motor vehicle
45 and shall display the same, upon demand of a judicial
46 magistrate or district associate judge, a peace
47 officer, or a field deputy or examiner of the
48 department. However, no person charged with violating
49 this section shall be convicted if he or she pro-
50 duces in court, within a reasonable time, an operator's

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1 or chauffeur's or motorized bicycle license or
2 instruction permit issued to him or her and valid
3 at the time of his the person's arrest."

4 7. Page 8, by inserting after line 4 the follow-
5 ing section:

6 "Sec. _____. Section three hundred twenty-one point
7 three hundred eighty-three (321.383), subsection three
8 (3), unnumbered paragraph two (2), Code 1977, is
9 amended to read as follows:

10 Any person who violates any provision of this
11 section shall be fined ~~not more than five dollars~~
12 as provided in section eight hundred five point eight
13 (805.8), subsection two (2), paragraph d, of the Code
14 Supplement."

15 8. Page 8, by inserting after line 4 the following
16 new section:

17 "Sec. _____. Chapter three hundred twenty-one (321),
18 Code 1977, is amended by adding the following new
19 section:

20 NEW SECTION. VEHICLES WITHOUT IDENTIFICATION
21 NUMBERS. Any person who knowingly buys, receives,
22 disposes of, sells, offers for sale, or has in his
23 or her possession any vehicle, or an component part
24 of a vehicle, from which the vehicle identification
25 number of component part number has been removed,
26 defaced, covered, altered, or destroyed for the purpose
27 of concealing or misrepresenting the identity of the
28 vehicle or component part is guilty of a simple
29 misdemeanor."

30 9. Page 8, by inserting after line 29 the follow-
31 ing section:

32 "Sec. _____. Section five hundred seven point sixteen
33 (507.16), Code 1977 Supplement, is amended to read
34 as follows:

35 507.16 UNLAWFUL SOLICITATION OF BUSINESS. Any
36 officer, manager, agent, or representative of any
37 insurance company contemplated by this chapter, who,
38 with knowledge that its certificate of authority has
39 been suspended or revoked, or that it is insolvent,
40 or is doing an unlawful or unauthorized business,
41 solicits insurance for said company, or receives
42 applications therefor, or does any other act or thing
43 toward receiving or procuring any new business for
44 said company, shall be deemed guilty of a serious
45 misdemeanor, and the provisions of ~~said~~ said sections five
46 hundred eleven point sixteen (511.16) of the Code
47 Supplement and five hundred eleven point seventeen
48 (511.17) of the Code are hereby extended to all
49 companies contemplated by this chapter."

50 10. Page 9, line 14, by striking the word "subsec-

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1 tion" and inserting in lieu thereof the words and
2 figure "subsections three (3) and".

3 11. Page 9, by inserting after line 15 the follow-
4 ing subsection:

5 "3. A person who willfully and knowingly engages
6 in the business of entering into consumer credit
7 transactions, or of taking assignments of rights
8 against consumers arising therefrom and undertaking
9 direct collection of payments or enforcement of these
10 rights, without complying with the provisions of this
11 chapter concerning notification under section 537.6202
12 or payment of fees under section 537.6203, is guilty
13 of a simple misdemeanor and upon conviction may be
14 ~~sentenced to pay a fine not exceeding one hundred~~
15 ~~dollars.~~"

16 12. Page 9, line 21, by inserting after the words
17 and figure "paragraph one (1)" the words and figure
18 "and subsection two (2), paragraph a".

19 13. Page 9, by inserting after line 24 the follow-
20 ing lettered paragraph:

21 "a. A preplacement investigation and report of
22 the investigation shall be completed and the
23 prospective adoption petitioner approved for a
24 placement by the person making the investigation prior
25 to any agency or independent placement of a minor
26 person in the petitioner's home in anticipation of
27 an ensuing adoption. A report of a preplacement
28 investigation that has approved a prospective adoption
29 petitioner for a placement shall not authorize
30 placement of a minor person with that petitioner after
31 one year from the date of the report's issuance.
32 However, if the prospective adoption petitioner is
33 a stepparent or a relative within the fourth degree
34 of consanguinity who has assumed custody of a minor
35 person to be adopted, a preplacement investigation
36 of this petitioner and a report of the investigation
37 may be completed at a time established by the court
38 or may be waived as provided in ~~section 6~~ subsection
39 twelve (12) of this section."

40 14. Page 11, by inserting after line 34 the follow-
41 ing section:

42 "Sec. ____ . Section seven hundred nine point four
43 (709.4), unnumbered paragraph one (1) and subsections
44 one (1) and four (4), Code 1977 Supplement, are amended
45 to read as follows:

46 Any sex act between persons who are not at the
47 time cohabiting as husband and wife is sexual abuse
48 in the third degree by ~~either of the participants~~
49 a person when the act is performed with the other
50 participant in any of the following circumstances:

1 1. Such act is done by force or against the will
2 of the other participant.

3 4. The other person participant is fourteen or
4 fifteen years of age ~~but less than sixteen years of~~
5 age and the defendant person is a member of the same
6 household as the victim other participant, the
7 defendant person is related to the victim other
8 participant by blood or affinity to the fourth degree,
9 or the defendant person is in a position of authority
10 over the victim other participant and used this
11 authority to coerce the victim other participant to
12 submit."

13 15. Page 11, by inserting after line 34 the
14 following section:

15 "Sec. ____ . Section seven hundred nine point four
16 (709.4), Code 1977 Supplement, is amended by adding
17 the following new subsection:

18 NEW SUBSECTION. 5. The person is six or more years
19 older than the other participant, and that other
20 participant is fourteen or fifteen years of age."

21 16. Page 11, by inserting after line 34 the
22 following section:

23 "Sec. ____ . Section seven hundred ten point six
24 (710.6), Code 1977 Supplement, is amended to read
25 as follows:

26 710.6 VIOLATING CUSTODIAL ORDER. Any relative
27 of a child who, acting in violation of any order of
28 any court which fixes, permanently or temporarily,
29 the custody of such child in another, takes and removes
30 such child and removes him or her from the state,
31 and conceals the child's whereabouts without the
32 consent of the person having lawful custody, commits
33 a class D felony.

34 Any parent of a child living apart from the other
35 parent who takes and conceals that child from another
36 within the state in violation of a custodial order
37 and without the other parent's consent shall be guilty
38 of a serious misdemeanor.

39 Any parent of a child living apart from the other
40 parent who conceals that child in violation of a court
41 order granting visitation rights and without the other
42 parent's consent, shall be guilty of a serious
43 misdemeanor."

44 17. Page 11, by striking line 35.

45 18. Page 12, by striking lines 1 through 6 and
46 inserting in lieu thereof the following section:

47 "Sec. ____ . Section seven hundred sixteen point
48 five (716.5), Code 1977 Supplement, is amended by
49 adding the following new unnumbered paragraph:

50 NEW UNNUMBERED PARAGRAPH. A person commits criminal

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1 mischief in the third degree who does either of the
2 following:

- 3 1. Intentionally disinters human remains from
4 a burial site without lawful authority.
- 5 2. Intentionally disinters human remains that
6 have state and national significance from an historical
7 or scientific standpoint for the inspiration and
8 benefit of the United States without the permission
9 of the state archaeologist."

10 19. Page 12, by inserting after line 6 the
11 following new section:

12 "Sec. _____. Section seven hundred fourteen point
13 eight (714.8), Code 1977 Supplement, is amended by
14 adding the following new subsection:

15 NEW SUBSECTION. Removes, defaces, covers, alters,
16 or destroys any component part number as defined in
17 section three hundred twenty-one point one (321.1),
18 subsection seventy-four (74), of the Code or vehicle
19 identification number as defined in section three
20 hundred twenty-one point one (321.1), subsection
21 seventy-five (75), of the Code for the purpose of
22 concealing or misrepresenting the identity of the
23 component part or vehicle."

24 20. Page 12, by inserting after line 20 the
25 following section:

26 "Sec. _____. Section seven hundred twenty-five point
27 nine (725.9), Code 1977 Supplement, is amended to
28 read as follows:

29 725.9 POSSESSION OF GAMBLING DEVICES PROHIBITED.
30 ~~No one shall,~~ A person who in any manner or for any
31 purpose whatever, ~~except under proceeding to destroy~~
32 the same, ~~have, keep, or hold~~ has in possession or
33 control any gambling device shall be guilty of a
34 serious misdemeanor. The term "gambling device" means
35 and includes every device used or adapted or designed
36 to be used for gambling. Roulette wheels, klondike
37 tables, ~~punchboards~~ punchboards, faro layouts, keno
38 layouts, numbers tickets, slot machines, pinball
39 machines, push cards, jar tickets and pull-tabs are
40 gambling devices per se. The term "gambling device"
41 does not include any device regularly manufactured
42 and offered for sale and sold as a toy, except that
43 any use of such a device for gambling purposes
44 constitutes unlawful gambling."

45 21. Page 17, by inserting after line 14 the
46 following section:

47 "Sec. _____. Section eight hundred five point eight
48 (805.8), subsection two (2), paragraph b, Code 1977
49 Supplement, is amended to read as follows:

50 b. For registration violations under sections

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1 321.17, 321.32, 321.34, 321.37, 321.38, 321.41, and
2 ~~321.190~~ subsection three (3) of section three hundred
3 twenty-one point one hundred eighty-nine (321.189)
4 of the Code, the scheduled fine is five dollars.
5 For violations of ~~section-321-190~~ subsection three
6 (3) of section three hundred twenty-one point one
7 hundred eighty-nine (321.189) of the Code, the case
8 shall be dismissed without imposition of fine or costs
9 if a license valid at the time of the issuance of
10 the citation is presented by the defendant to the
11 magistrate or scheduled violations office."

12 22. Page 18, by inserting after line 13 the
13 following section:

14 "Sec. _____. Section eight hundred fifteen point
15 seven (815.7), Code 1977 Supplement, is amended to
16 read as follows:

17 815.7 FEES TO ATTORNEYS. An attorney appointed
18 by the court to represent any person charged with
19 a crime in this state shall be entitled to a reasonable
20 compensation which shall be the ordinary and customary
21 charges for like services in the community to be
22 decided in each case by a judge of the district judge
23 court, including such sum or sums as the court may
24 determine are necessary for investigation in the
25 interests of justice and in the event of appeal the
26 cost of obtaining the transcript of the trial and
27 the printing of the trial record and necessary briefs
28 in behalf of the defendant. Such attorney need not
29 follow the case into another county or into the
30 appellate court unless so directed by the court at
31 the request of the defendant, where grounds for further
32 litigation are not capricious or unreasonable, but
33 if such attorney does so his or her fee shall be
34 determined accordingly. Only one attorney fee shall
35 be so awarded in any one case except that in class
36 A felony cases, two may be authorized."

37 23. Page 21, by inserting after line 12 the follow-
38 ing section:

39 "Sec. _____. Section nine hundred seven point four
40 (907.4), Code 1977 Supplement, is amended to read
41 as follows:

42 907.4 DEFERRED JUDGMENT DOCKET. Any deferment
43 of judgment under section 907.3 shall be reported
44 promptly by the clerk of the district court to the
45 supreme court administrator who shall maintain a
46 permanent record thereof including the name of the
47 defendant, the district court docket number, the
48 nature of the offense, and the date of the deferment.
49 Before granting deferment in any case, the court shall
50 request of the supreme court administrator a search

1 of the deferred judgment docket and shall consider
2 any prior record of a deferment of judgment against
3 the defendant. The permanent record provided for
4 in this section shall constitute a confidential record
5 exempted from public access under section 68A.7 and
6 shall be available only to justices of the supreme
7 court, judges of the court of appeals, district judges,
8 district associate judges, and judicial magistrates
9 requesting information pursuant to this section or
10 the designee of such justice, judge, or magistrate."

11 24. Page 23, by inserting after line 19 the
12 following sections:

13 "Sec. _____. Acts of the Sixty-seventh General
14 Assembly, 1977 Session, chapter eighty-seven (87),
15 section one (1), unnumbered paragraph one (1), is
16 amended to read as follows:

17 It is the intent of this Act that there be made
18 available within the state correctional institutions
19 opportunities for employment of inmates in meaningful
20 ~~jobs at wages commensurate with those paid persons~~
21 ~~employed in similar jobs outside the correctional~~
22 ~~institutions,~~ with the following objectives:

23 Sec. _____. Acts of the Sixty-seventh General
24 Assembly, 1977 Session, chapter eighty-seven (87),
25 section ten (10), subsection three (3), is amended
26 to read as follows:

27 3. Except as prohibited by applicable provisions
28 of the United States Code, inmates of adult
29 correctional institutions of this state may be employed
30 in the manufacture and processing of products for
31 introduction into interstate or intrastate commerce,
32 so long as they are paid ~~no less than the prevailing~~
33 ~~minimum wage~~ wages commensurate with those paid persons
34 employed in similar jobs outside the correctional
35 institutions.

36 Sec. _____. Acts of the Sixty-seventh General
37 Assembly, 1977 Session, chapter eighty-seven (87),
38 section twelve (12), is amended to read as follows:

39 Sec. 12. Effective July 1, 1978, and
40 notwithstanding any other provisions of this Act,
41 goods made available by Iowa State Industries shall
42 be restricted to items, materials, supplies and
43 equipment which are formulated and/or manufactured
44 by Iowa State Industries and shall not include goods,
45 materials, supplies or equipment which are merely
46 purchased by Iowa State Industries for repacking or
47 resale except with approval of the state director
48 when such repacking for resale items are directly
49 related to product lines."

50 25. Renumbering as necessary.

SENATE FILE 2200

S-5929

1 Amend the House amendment, S-5926, to Senate File
2 2200, as amended, passed, and reprinted by the Senate
3 as follows:
4 1. Page 8, by striking lines 21 through 43.

S-5929 FILED & LOST (p. 15711) BY GENE W. GLENN
MAY 12 1978

SENATE FILE 2200

AN ACT

MAKING TECHNICAL CHANGES OF A CORRECTIVE NATURE TO THE NEW
CRIMINAL CODE.

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

Section 1. Section eighteen point one hundred eighteen (18.118), Code 1977, is amended to read as follows:

18.118 PENALTY FOR PRIVATE USE. Any state officer or employee ~~found guilty of~~ violating the rules of the state vehicle dispatcher shall ~~upon conviction, be fined not to exceed one hundred dollars or imprisoned not to exceed thirty days in the county jail~~ guilty of a simple misdemeanor.

Sec. 2. Section twenty-nine A point thirty-five (29A.35), Code 1977, is amended to read as follows:

29A.35 USE FOR MILITARY ONLY. All arms, clothing, equipment, and other military property furnished or issued by the federal government or the state or for which an allowance has been made, shall be used for military purposes only, and each officer and enlisted person upon being separated from the military forces of the state, or upon demand of the commanding officer, shall forthwith surrender such military property in the officer's or enlisted person's possession to said commanding officer. Any member of the national guard who shall neglect to return to the armory of the unit, or place in charge of the commanding officer of the organization to which the member belongs, any arms, clothing, equipment, or other military property or portion thereof, belonging to the federal government or the state, upon being notified by said commanding officer to do so, shall be guilty of a serious misdemeanor.

Sec. 3. Section twenty-nine A point thirty-six (29A.36), Code 1977, is amended to read as follows:

29A.36 INJURY OR DESTRUCTION OF PROPERTY. Every person who shall willfully or wantonly injure or destroy any articles of arms, clothing, equipment, or other military property furnished or issued by the federal government or the state, and refuses to make good such injury or loss; or who shall sell, dispose of, secrete or remove the same with intent to sell or dispose of it, shall be ~~punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail for not more than four months, or by both such fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 4. Section twenty-nine A point thirty-eight (29A.38), Code 1977, is amended to read as follows:

29A.38 SERIOUS MISDEMEANORS. Any officer or enlisted person of the national guard who knowingly makes any false certificate of muster or false return of federal or state property or funds in the officer's or enlisted person's possession shall be guilty of a serious misdemeanor.

Sec. 5. Section twenty-nine A point thirty-nine (29A.39), Code 1977, is amended to read as follows:

29A.39 EMBEZZLEMENT THEFT. Any officer or enlisted person of the national guard who willfully neglects or refuses to apply all money, in the officer's or enlisted person's possession drawn from the state treasury, to the purpose for which such money was appropriated or who fails or refuses to account for or return any state or federal property or funds in the officer's or enlisted person's possession shall be guilty of ~~the crime of embezzlement by bailee and punished accordingly~~ theft.

Sec. 6. Section twenty-nine A point forty (29A.40), Code 1977, is amended to read as follows:

29A.40 FALSE WEARING OF UNIFORM. No member of the national guard shall wear the uniform thereof while not on duty without permission from competent authority. No person, firm, or corporation, other than a military organization or the members ~~of veterans~~ of such organizations organizing for the benefit

of all its members, shall incorporate under the name of, or adopt any trade name which embodies the name or designation, officially or generally recognized as the name of a military organization now or heretofore in existence, or any distinctive part of such name. Any person found guilty of a violation of any of the provisions of this section shall be ~~punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Any person who, without authority under the laws of the United States or of one of the states, wears the uniform of, or a distinctive part of the uniform of the armed forces of the United States, shall be guilty of a simple misdemeanor and shall be punished as provided in this section.

Sec. 7. Section twenty-nine A point forty-two (29A.42), Code 1977, is amended to read as follows:

29A.42 TRESPASS OR INTERFERENCE WITH OFFICIAL ACTS. Any person who shall trespass upon any military reservation, camp, or armory, in violation of the orders of the commander thereof, or officer charged with the responsibility therefor, ~~or shall be guilty of trespass and shall be punished as provided in section seven hundred sixteen point eight (716.8) of the Code Supplement.~~

Any person who shall molest, or interfere with any member of the national guard, in the discharge of his the member's duty, shall be guilty of a misdemeanor interference with official acts which is section seven hundred nineteen point one (719.1) of the Code Supplement. The commanding officer of such force may order the arrest of such person and cause him the person to be delivered to a peace officer or magistrate.

Sec. 8. Section twenty-nine A point forty-three (29A.43), Code 1977, is amended to read as follows:

29A.43 DISCRIMINATION PROHIBITED--LEAVE OF ABSENCE. No person, firm, or corporation, shall discriminate against any officer or enlisted person of the national guard or organized

reserves of the armed forces of the United States because of his membership therein. No employer, or agent of any employer, shall discharge any person from employment because of being an officer or enlisted person of the military forces of the state, or hinder or prevent the officer or elected person from performing any military service such person may be called upon to perform by proper authority. Any member of the national guard or organized reserves of the armed forces of the United States ordered to temporary active duty for the purpose of military training or ordered on active state service, shall be entitled to a leave of absence during the period of such duty or service from the member's private employment, other than employment of a temporary nature, and upon completion of such duty or service the employer shall restore such person to the position held prior to such leave of absence, or employ such person in a similar position, provided, however, that such person shall give evidence to the employer of satisfactory completion of such training or duty, and further provided that such person is still qualified to perform the duties of such position. Such period of absence shall be construed as an absence with leave, and shall in no way affect the employee's rights to vacation, sick leave, bonus, or other employment benefits relating to the employee's particular employment. Any person violating any of the provisions of this section shall be ~~punished by a fine of not to exceed one hundred dollars, or by imprisonment in the county jail for a period of not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 9. Section twenty-nine A point forty-four (29A.44), Code 1977, is amended to read as follows:

29A.44 ASSAULT ON GUARDSMAN. Whenever the national guard is called into service under proclamation of the governor for the performance of any duties contemplated in this chapter any person who willfully assaults, or fires at, or throws any dangerous missiles at, against, or upon any member or body of the national guard so engaged, or civil officer or

other persons lawfully aiding or assisting them in the discharge of their duties, shall be deemed guilty of ~~a felony and upon conviction shall be imprisoned in the state penitentiary for not more than two years~~ an aggravated misdemeanor.

Sec. 10. Section thirty-two point one (32.1), Code 1977, is amended to read as follows:

32.1 DESECRATION OF FLAG OR INSIGNIA. Any person who in any manner, for exhibition or display, shall place or cause to be placed, any word, figure, mark, picture, design, drawing, or any advertisement of any nature, upon any flag, standard, color, ensign, shield, or other insignia of the United States, or upon any flag, ensign, great seal, or other insignia of this state, or shall expose or cause to be exposed to public view, any such flag, standard, color, ensign, shield, or other insignia of the United States, or any such flag, ensign, great seal, or other insignia of this state, upon which shall have been printed, painted, or otherwise placed, or to which shall be attached, appended, affixed, or annexed, any word, figure, mark, picture, design, or drawing, or any advertisement of any nature, or who shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away, or for use for any purpose any article or substance, being an article of merchandise or a receptacle of merchandise or article or thing for carrying or transporting merchandise, upon which shall have been printed, painted, attached or otherwise placed, a representation of any such flag, standard, color, ensign, shield, or other insignia of the United States, or any such flag, ensign, great seal, or other insignia of this state, to advertise, call attention to, decorate, mark, or distinguish the article or substance on which so placed, or who shall publicly mutilate, deface, defile or defy, trample upon, cast contempt upon, satirize, deride or burlesque, either by words or act, such flag, standard, color, ensign, shield, or other insignia of the United States, or flag, ensign, great seal, or other insignia

of this state, or who shall, for any purpose, place such flag, standard, color, ensign, shield, or other insignia of the United States, or flag, ensign, great seal, or other insignia of this state, upon the ground or where the same may be trod upon, shall be deemed guilty of a simple misdemeanor ~~and shall be punished by a fine not exceeding one hundred dollars or by imprisonment for not more than thirty days and shall also forfeit a penalty of fifty dollars for each such offense, to be recovered, with costs, in a civil action or suit in any court having jurisdiction.~~

Sec. 11. Section forty-three point one hundred nineteen (43.119), Code 1977, is amended to read as follows:

43.119 MISCONDUCT. Any party ~~committeeman~~ committee member or any primary election officer or public officer upon whom a duty is imposed by this chapter or by chapters herein made applicable, who shall willfully neglect to perform any such duty, or who shall willfully perform it in such a way as to hinder the objects thereof, or shall disclose to anyone, except as may be ordered by any court of justice, the manner in which a ballot may have been voted, shall be ~~punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 12. Section eighty-eight point fourteen (88.14), subsections five (5), six (6), and seven (7), Code 1977 Supplement, is amended to read as follows:

5. WILLFUL VIOLATIONS CAUSING DEATH. Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 88.5, or ~~of~~ any regulations prescribed pursuant to this chapter, and that violation caused death to any employee, shall, upon conviction, be ~~punished by a fine of not more than ten thousand dollars or by imprisonment for not more than six months or by both such fine and imprisonment~~ guilty of a serious misdemeanor; except that if the conviction is for a violation committed after a first conviction

of such person, ~~punishment shall be by a fine of not more than twenty thousand dollars or by imprisonment of not more than one year, or by both such fine and imprisonment~~ the person shall be guilty of an aggravated misdemeanor.

6. ADVANCE NOTICE OF INSPECTIONS. Any person who gives advance notice of any inspection to be conducted under this chapter, without authority from the commissioner or his the commissioner's designees, shall, upon conviction, be ~~punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

7. FILING FALSE DOCUMENTS. Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be ~~punished by a fine of not more than ten thousand dollars, or by imprisonment of not more than six months, or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 13. Section eighty-eight A point ten (88A.10), subsection one (1), Code 1977 Supplement, is amended to read as follows:

1. Any person who operates an amusement device or ride, concession booth or related electrical equipment at a carnival or fair without having obtained a permit from the commissioner or who violates any order or rule issued by the commissioner under this chapter is guilty of a serious misdemeanor ~~and, upon conviction, shall be subject to imprisonment in the county jail for not more than one year, or be subject to a fine not to exceed ten thousand dollars, or be subject to both such imprisonment and fine.~~

Sec. 14. Section one hundred twenty-three point forty-six (123.46), Code 1977, is amended to read as follows:

123.46 CONSUMPTION IN PUBLIC PLACES--INTOXICATION. It is unlawful for any person to use or consume alcoholic liquors or beer upon the public streets or highways, or alcoholic

liquors in any public place, except premises covered by a liquor control license, or to possess or consume alcoholic liquors or beer on any public school property or while attending any public or private school related functions, and no person shall be intoxicated nor simulate intoxication in a public place. As used in this section "school" means a school or that portion thereof, which provides teaching for any grade from kindergarten through grade twelve. Any person violating any provisions of this section shall be ~~fin~~ not to exceed one hundred dollars or sentenced not to exceed thirty days in the county jail guilty of a simple misdemeanor.

Sec. 15. Section one hundred twenty-three point ninety (123.90), Code 1977, is amended to read as follows:

123.90 PENALTIES GENERALLY. Unless other penalties are herein provided, any person, except a person under legal age, who violates any of the provisions of this chapter, or who makes a false statement concerning any material fact in submitting an application for a permit or license, shall be ~~punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment~~ guilty of a serious misdemeanor. Any person under legal age who violates any of the provisions of this chapter shall upon conviction be ~~punished by a fine not to exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 16. Section one hundred fifty-five point thirty (155.30), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

Any person who violates a provision of section one hundred fifty-five point twenty-nine (155.29) of the Code or who sells or offers for sale, gives away, or administers to another person any prescription drug shall be deemed guilty of violating the provisions of this section or who violates any provisions of section 155.29 is guilty of a public offense and punished as provided below.

Sec. 17. Section one hundred sixty-seven point nineteen (167.19), Code 1977 Supplement, is amended to read as follows:
167.19 PENALTY.

The violation of any of the provisions of this chapter or any rule adopted thereunder by the department shall be ~~guilty of~~ a simple misdemeanor.

Sec. 18. Section one hundred seventy-two C point eleven (172C.11), Code 1977, is amended to read as follows:

172C.11 PENALTIES--REPORTS. Willful failure to file a required report, or the willful filing of false information, is a ~~public offense--A person found guilty of violating this section shall be subject to a fine not to exceed one thousand dollars~~ serious misdemeanor.

Sec. 19. Section one hundred eighty-nine A point seven-teen (189A.17), subsection five (5), paragraphs a, b, and unnumbered paragraph one (1) of paragraph d, Code 1977, is amended to read as follows:

a. Any person who neglects or refuses to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if it is in ~~his the person's~~ the person's power to do so, in obedience to the subpoena or lawful requirement of the secretary shall be guilty of ~~an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment~~ a serious misdemeanor.

b. Any person who willfully makes, or causes to be made, any false entry or statement of fact in any report required to be made under this chapter, or who willfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to this chapter, or who willfully neglects or fails to make or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions pertaining to the business of such person, or who willfully removes

himself or herself from the jurisdiction of this state, or willfully mutilates, alters, or by any other means falsifies any documentary evidence of any person subject to this chapter or who willfully refuses to submit to the secretary or to any of ~~his~~ the secretary's authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any person subject to this chapter in ~~his~~ the person's possession or ~~within his~~ control, shall be deemed guilty of ~~an offense and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not less than one thousand dollars nor more than five thousand dollars, or to imprisonment in the county jail or the penitentiary for a term of not more than three years, or to both such fine and imprisonment~~ aggravated misdemeanor.

Any officer or employee of this state who makes public any information obtained by the secretary, without ~~his~~ the secretary's authority, unless directed by a court, or uses any such information to ~~his~~ the officer's or employee's advantage, shall be deemed guilty of a serious misdemeanor, ~~and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.~~

Sec. 20. Section one hundred ninety-one point three (191.3), unnumbered paragraph three (3), Code 1977 Supplement, is amended to read as follows:

Any person violating any provision of this section shall be guilty of a simple misdemeanor, and the suspension person shall have all licenses issued by the state for the public eating place in which a violation occurred suspended for one year of all licenses issued by the state of Iowa for the public eating place in which said violation occurred.

Sec. 21. Section one hundred ninety-six point fourteen (196.14), Code 1977, is amended to read as follows:

196.14 PENALTY. Any person ~~found guilty of any violation~~ who violates a provision of this chapter shall ~~upon conviction~~

~~for the first offense, be fined twenty-five dollars, for the second offense, one hundred dollars, and for the third and subsequent offenses, two hundred dollars~~ be guilty of a simple misdemeanor. In addition ~~to such fines,~~ if the offender is a handler or a retailer, the court for the third offense shall suspend ~~his or her~~ the offender's license for thirty days; and for the fourth and any subsequent offense, such license shall be revoked for a period of one year.

Sec. 22. Section one hundred ninety-eight point thirteen (198.13), subsections four (4) and six (6), Code 1977 Supplement, is amended to read as follows:

4. The secretary may apply for and the court ~~to~~ may grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule promulgated under the chapter notwithstanding the existence of other remedies of law. ~~Said~~ If granted, the injunction ~~to~~ shall be issued without bond.

6. Any person who uses to ~~his~~ the person's own advantage, or reveals to other than the secretary, or officers of the department or to the courts when relevant in any judicial proceedings, any information acquired under the authority of this chapter, concerning any method, records, formulations or processes which as a trade secret is entitled to protection, is guilty of a serious misdemeanor ~~and shall on conviction thereof be fined not less than one hundred dollars or imprisoned for not less than six months, or both, provided that this.~~ This prohibition shall not be deemed as prohibiting the secretary, or ~~his~~ the secretary's duly authorized agent, from exchanging information of a regulatory nature with appointed officials of the United States government, or of other states, who are similarly prohibited by law from revealing this information.

Sec. 23. Section two hundred four point one hundred one (204.101), subsection one (1), paragraph b, unnumbered paragraph two (2), Code 1977, is amended to read as follows:

Nothing contained in this chapter shall be construed to

prevent a physician, dentist, podiatrist or veterinarian from delegating the administration of controlled substances under this chapter to a nurse, ~~or~~ intern, or other qualified individual, or, as to veterinarians, to an orderly or assistant, under his or her direction and supervision; all pursuant to rules adopted by the board.

Sec. 24. Section two hundred seventeen point thirty (217.30), subsection seven (7), Code 1977, is amended to read as follows:

7. Violation of this section shall constitute a serious misdemeanor ~~punishable by a fine not to exceed two thousand dollars or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.~~

Sec. 25. Section two hundred seventeen point thirty (217.30), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The provisions of this section shall take precedence over section seventeen A point twelve (17A.12), subsection seven (7), of the Code.

Sec. 26. Chapter three hundred five A (305A), Code 1977, is amended by adding the following new section:

NEW SECTION. AUTHORITY TO DENY PERMISSION TO DISINTER HUMAN REMAINS. The state archaeologist shall have the authority to deny permission to disinter human remains that he or she determines have state and national significance from an historical or scientific standpoint for the inspiration and benefit of the people of the United States.

Sec. 27. Section three hundred twenty-one point ninety-seven (321.97), Code 1977 Supplement, is amended to read as follows:

321.97 FRAUDULENT APPLICATIONS.

Any person who fraudulently uses a false or fictitious name in any application for the registration of, or certificate of title to, a vehicle or knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a fraud in any such application is guilty of a fraudulent practice.

Sec. 28. Section three hundred twenty-one point one hundred eighty (321.180), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A permittee shall not be penalized for failing to have his or her permit in immediate possession if the permittee produces in court, within a reasonable time, an instruction permit issued to him or her and valid at the time of the permittee's arrest.

Sec. 29. Section three hundred twenty-one point one hundred eighty-nine (321.189), subsection three (3), Code 1977, is amended to read as follows:

3. CARRIED AND EXHIBITED. Every licensee shall have his or her operator's or chauffeur's, or motorized bicycle license or instruction permit in ~~his~~ immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of a judicial magistrate or district associate judge, a peace officer, or a field deputy or examiner of the department. However, no person charged with violating this section shall be convicted if he or she produces in court, within a reasonable time, an operator's or chauffeur's or motorized bicycle license or instruction permit issued to him or her and valid at the time of ~~his~~ the person's arrest.

Sec. 30. Section three hundred twenty-one point two hundred sixty (321.260), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

Any person who willfully and intentionally, without lawful authority, attempts to or in fact alters, defaces, injures, knocks down, or removes any official traffic-control device, any authorized warning sign or signal or barricade, whether temporary or permanent, any railroad sign or signal, any inscription, shield or insignia on any of such devices, signs, signals, or barricades, or any other part thereof, shall, upon conviction, be ~~punished by imprisonment in the county jail for not more than six months, or fined not more than five hundred dollars, or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 31. Section three hundred twenty-one point three hundred eighty-three (321.383), subsection three (3), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

Any person who violates any provision of this section shall be fined ~~not more than five dollars~~ as provided in section eight hundred five point eight (805.8), subsection two (2), paragraph d, of the Code Supplement.

Sec. 32. Chapter three hundred twenty-one (321), Code 1977, is amended by adding the following new section:

NEW SECTION. VEHICLES WITHOUT IDENTIFICATION NUMBERS. Any person who knowingly buys, receives, disposes of, sells, offers for sale, or has in his or her possession any vehicle, or any component part of a vehicle, from which the vehicle identification number or component part number has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle or component part is guilty of a simple misdemeanor.

Sec. 33. Section three hundred twenty-eight point forty-one (328.41), unnumbered paragraph three (3), Code 1977 Supplement, is amended to read as follows:

Any person who operates any aircraft, while in an intoxicated condition or under the influence of narcotic drugs in violation of this section, shall, upon conviction or a plea of guilty, be punished guilty of a serious misdemeanor for the first offense ~~by a fine of not less than three hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for a period not to exceed one year, or by both such fine and imprisonment, be guilty of an aggravated misdemeanor~~ for the second offense ~~by a fine of not less than five hundred dollars, nor more than one thousand dollars, or by imprisonment in the penitentiary for a period of not to exceed one year, or by both such fine and imprisonment,~~ and be guilty of a class D felony for a third offense ~~by imprisonment in the penitentiary for a period not to exceed three years.~~

Sec. 34. Section four hundred fifty-two point five (452.5), Code 1977 Supplement, is amended to read as follows:

452.5 LOANS BY TREASURER OF STATE.

The treasurer of state shall be guilty of a serious misdemeanor for ~~a-like-violation~~ loaning out, or in any manner using for private purposes, state, county, or other funds in the treasurer's hands.

Sec. 35. Section five hundred seven point sixteen (507.16), Code 1977 Supplement, is amended to read as follows:

507.16 UNLAWFUL SOLICITATION OF BUSINESS.

Any officer, manager, agent, or representative of any insurance company contemplated by this chapter, who, with knowledge that its certificate of authority has been suspended or revoked, or that it is insolvent, or is doing an unlawful or unauthorized business, solicits insurance for said company, or receives applications therefor, or does any other act or thing toward receiving or procuring any new business for said company, shall be deemed guilty of a serious misdemeanor, and the provisions of ~~said~~ sections five hundred eleven point sixteen (511.16) of the Code Supplement and five hundred eleven point seventeen (511.17) of the Code are hereby extended to all companies contemplated by this chapter.

Sec. 36. Section five hundred seven A point ten (507A.10), Code 1977 Supplement, is amended to read as follows:

507A.10 PENALTIES.

Any unauthorized foreign or alien insurer who does any unauthorized act of an insurance business as set forth in this chapter shall be guilty of a ~~fraudulent-practice~~ serious misdemeanor.

Sec. 37. Section five hundred fifteen point one hundred twenty (515.120), Code 1977 Supplement, is amended to read as follows:

515.120 VIOLATIONS.

Any officer, manager, or agent of any insurance company or association who, with knowledge that it is doing business in an unlawful manner, or is insolvent, solicits insurance

with said company or association, or receives applications therefor, or does any other act or thing towards procuring or receiving any new business for such company or association, shall be guilty of a ~~fraudulent-practice~~ serious misdemeanor.

Sec. 38. Section five hundred thirty-seven point five thousand three hundred one (537.5301), subsections three (3) and four (4), Code 1977 Supplement, is amended to read as follows:

3. A person who willfully and knowingly engages in the business of entering into consumer credit transactions, or of taking assignments of rights against consumers arising therefrom and undertaking direct collection of payments or enforcement of these rights, without complying with the provisions of this chapter concerning notification under section 537.6202 or payment of fees under section 537.6203, is guilty of a simple misdemeanor ~~and-upon-conviction-may-be-sentenced-to-pay-a-fine-not-exceeding-one-hundred-dollars.~~

4. A person who willfully and knowingly violates the provisions of section 537.7103 is guilty of a serious misdemeanor ~~and-upon-conviction-may-be-sentenced-to-pay-a-fine-not-exceeding-one-thousand-dollars.~~

Sec. 39. Section six hundred point eight (600.8), subsection one (1), paragraph b, unnumbered paragraph one (1) and subsection two (2), paragraph a, Code 1977 Supplement, is amended to read as follows:

A postplacement investigation and a report of this investigation ~~and-a-report-of-this-investigation~~ shall:

a. A preplacement investigation and report of the investigation shall be completed and the prospective adoption petitioner approved for a placement by the person making the investigation prior to any agency or independent placement of a minor person in the petitioner's home in anticipation of an ensuing adoption. A report of a preplacement investigation that has approved a prospective adoption petitioner for a placement shall not authorize placement of a minor person with that petitioner after one year from the

date of the report's issuance. However, if the prospective adoption petitioner is a stepparent or a relative within the fourth degree of consanguinity who has assumed custody of a minor person to be adopted, a preplacement investigation of this petitioner and a report of the investigation may be completed at a time established by the court or may be waived as provided in ~~section-6~~ subsection twelve (12) of this section.

Sec. 40. Section six hundred two point sixty-two (602.62), Code 1977 Supplement, is amended to read as follows:
602.62 PROCEDURE.

The criminal procedure before judicial magistrates shall be as provided in chapters 804, 806, 808, 811, and 820, and eight hundred twenty-one (821) of the Code Supplement, and rules 2 and 32 through 46, rules of criminal procedure. The civil procedure before judicial magistrates shall be as provided in chapters 631 and 648.

Sec. 41. Section six hundred ninety-one point one (691.1), Code 1977 Supplement, is amended to read as follows:
691.1 LABORATORY CREATED.

There is hereby created under the control, direction and supervision of the commissioner of public safety a state criminalistics laboratory. The commissioner of public safety may assign the criminalistics laboratory to a division or bureau within his or her department. The laboratory shall, within its capabilities, conduct analyses, comparative studies, fingerprint identification, firearms identification, questioned documents studies, and other studies normally performed by a criminalistics laboratory when requested by a county attorney, medical examiner, or law enforcement agency of this state to aid in any criminal investigation. Agents of the division of criminal investigation and bureau of identification may be assigned to the criminalistics laboratory by the commissioner. New employees shall be appointed pursuant to chapter 19A, and need not qualify as agents for the division of criminal investigation and bureau of identification, and

shall not participate in the peace officers' retirement plan established pursuant to chapter 97A.

Sec. 42. Section six hundred ninety-one point nine (691.9), subsection one (1), Code 1977 Supplement, is amended to read as follows:

1. Ammunition and firearms which are stolen or embezzled or confiscated pursuant to a valid arrest or search warrant and for which lawful possession is not established or for which lawful title cannot be ascertained pursuant to ~~chapters 645-and~~ chapter 809 shall be forwarded to the state criminalistics laboratory for deposit by the law enforcement agency having possession of such items. Ammunition and firearms which were used in the perpetration or attempted perpetration of a criminal offense and are owned by the perpetrator of such offense shall be forfeited to the state, and shall be deposited with the state criminalistics laboratory if no longer required in a criminal action for evidentiary purposes. Ammunition and firearms forfeited shall become the property of the state.

Sec. 43. Section six hundred ninety-two point seventeen (692.17), Code 1977 Supplement, is amended to read as follows:
692.17 EXCLUSIONS.

Criminal history data in a computer data storage system does shall not include arrest or disposition data after the person has been acquitted or the charges dismissed.

Sec. 44. Section seven hundred two point seventeen (702.17), Code 1977 Supplement, is amended to read as follows:
702.17 SEX ACT.

The term "sex act" or "sexual activity" means any sexual contact between two or more persons, by penetration of the penis into the vagina or anus, by contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person or by use of ~~artificial~~ artificial sexual organs or substitutes therefore in contact with the genitalia or anus.

Sec. 45. Section seven hundred three point five (703.5),

subsection two (2), unnumbered paragraph two (2), Code 1977 Supplement, is amended to read as follows:

"High managerial agent" means an officer of the corporation, partner, or other agent in a position of comparable authority with respect to the formulation of policy or the ~~asupervision~~ supervision in a managerial capacity of subordinate employees.

Sec. 46. Section seven hundred four point twelve (704.12), Code 1977 Supplement, is amended to read as follows:
704.12 USE OF FORCE IN MAKING AN ARREST.

A peace officer or other person making an arrest or securing an arrested person may use such force as is permitted by sections ~~804.14 through 804.16~~ eight hundred four point eight (804.8), eight hundred four point ten (804.10), eight hundred four point thirteen (804.13), and eight hundred four point fifteen (804.15) of the Code Supplement.

Sec. 47. Section seven hundred nine point four (709.4), unnumbered paragraph one (1) and subsections one (1) and four (4), Code 1977 Supplement, are amended to read as follows:

Any sex act between persons who are not at the time cohabiting as husband and wife is sexual abuse in the third degree by ~~either of the participants~~ a person when the act is performed with the other participant in any of the following circumstances:

1. Such act is done by force or against the will of the other participant.

4. The other person participant is fourteen or fifteen years of age ~~but less than sixteen years of age~~ and the defendant person is a member of the same household as the victim other participant, the defendant person is related to the victim other participant by blood or affinity to the fourth degree, or the defendant person is in a position of authority over the victim other participant and used this authority to coerce the victim other participant to submit.

Sec. 48. Section seven hundred nine point four (709.4), Code 1977 Supplement, is amended by adding the following new

subsection:

NEW SUBSECTION. 5. The person is six or more years older than the other participant, and that other participant is fourteen or fifteen years of age.

Sec. 49. Section seven hundred ten point six (710.6), Code 1977 Supplement, is amended to read as follows:
710.6 VIOLATING CUSTODIAL ORDER.

Any relative of a child who, acting in violation of any order of any court which fixes, permanently or temporarily, the custody of such child in another, takes and removes such child ~~and removes him or her~~ from the state, and conceals the child's whereabouts without the consent of the person having lawful custody, commits a class D felony.

Any parent of a child living apart from the other parent who takes and conceals that child from another within the state in violation of a custodial order and without the other parent's consent shall be guilty of a serious misdemeanor.

Any parent of a child living apart from the other parent who conceals that child in violation of a court order granting visitation rights and without the other parent's consent, shall be guilty of a serious misdemeanor.

Sec. 50. Section seven hundred sixteen point five (716.5), Code 1977 Supplement, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person commits criminal mischief in the third degree who does either of the following:

1. Intentionally disinters human remains from a burial site without lawful authority.

2. Intentionally disinters human remains that have state and national significance from an historical or scientific standpoint for the inspiration and benefit of the United States without the permission of the state archaeologist.

Sec. 51. Section seven hundred fourteen point eight (714.8), Code 1977 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. Removes, defaces, covers, alters, or

destroys any component part number as defined in section three hundred twenty-one point one (321.1), subsection seventy-four (74), of the Code or vehicle identification number as defined in section three hundred twenty-one point one (321.1), subsection seventy-five (75), of the Code for the purpose of concealing or misrepresenting the identity of the component part or vehicle.

Sec. 52. Section seven hundred fourteen point twenty-one (714.21), Code 1977 Supplement, is amended to read as follows:
714.21 PENALTY.

Violation of any of the provisions of sections 714.17, 714.18, or 714.20 shall be ~~punishable upon conviction by a fine not exceeding five hundred dollars or six months in jail or both~~ a serious misdemeanor.

Sec. 53. Section seven hundred twenty-one point six (721.6), Code 1977 Supplement, is amended to read as follows:
721.6 EXCEPTION TO SECTIONS 721.3 TO 721.5.

The provisions of sections 721.3 to 721.5, inclusive, shall not be construed as prohibiting any such officer or employee who is a candidate for political office to engage in campaign campaigning at any time or at any place for himself or herself.

Sec. 54. Section seven hundred twenty-five point nine (725.9), Code 1977 Supplement, is amended to read as follows:
725.9 POSSESSION OF GAMBLING DEVICES PROHIBITED.

~~No one shall~~ A person who in any manner or for any purpose whatever, except under proceeding to destroy the same, ~~have, keep, or hold~~ has in possession or control any gambling device shall be guilty of a serious misdemeanor. The term "gambling device" means and includes every device used or adapted or designed to be used for gambling. Roulette wheels, klondike tables, ~~punchboards~~ punchboards, faro layouts, keno layouts, numbers tickets, slot machines, pinball machines, push cards, jar tickets and pull-tabs are gambling devices per se. The term "gambling device" does not include any device regularly manufactured and offered for sale and sold as a toy, except that any use of such a device for gambling purposes constitutes

unlawful gambling.

Sec. 55. Section seven hundred twenty-five point ten (725.10), Code 1977 Supplement, is amended to read as follows:
725.10 POOL SELLING--PLACES USED FOR.

Any person who records or registers bets or wagers or sells pools upon the result of any trial or contest of skill, speed, or power of endurance of man or beast, or upon the result of any political nomination or election, and any person who keeps a place for the purpose of doing any such thing, and any owner, lessee, or occupant of any premises, who knowingly permits the same, or any part thereof, to be used for any such purpose, and anyone who, as custodian or depository thereof, for hire or reward, receives any money, property, or thing of value staked, wagered, or bet upon any such result, shall be ~~finned not exceeding one thousand dollars, or imprisoned in the county jail not exceeding one year, or both~~ guilty of a serious misdemeanor.

Sec. 56. Section seven hundred twenty-five point eleven (725.11), Code 1977 Supplement, is amended to read as follows:
725.11 BULLFIGHTS AND OTHER CONTESTS.

If any person keep or use, or in any way be connected with, or be interested in the management of, or receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, or other creature, or engage in, aid, abet, encourage, or assist in any bull, bear, dog, or cock fight, or a fight between any other creatures, ~~he~~ the person shall be guilty of a serious misdemeanor.

Sec. 57. Section seven hundred twenty-five point fourteen (725.14), Code 1977 Supplement, is amended to read as follows:
725.14 PUNISHMENT FOR SECTION 725.13.

A violation of the provisions of section 725.13 shall be ~~punished by a fine not less than five nor exceeding one hundred dollars, or imprisonment in the county jail not exceeding thirty days~~ a simple misdemeanor.

Sec. 58. Section seven hundred twenty-five point sixteen

(725.16), Code 1977 Supplement, is amended to read as follows:
725.16 GAMBLING PENALTY.

A person who commits an offense declared in ~~sections 725-5 through 725-18~~ or chapter 99B to be a misdemeanor shall be guilty of a serious misdemeanor.

Sec. 59. Section seven hundred twenty-eight point four (728.4), Code 1977 Supplement, is amended to read as follows:
728.4 SALE OF HARD CORE PORNOGRAPHY.

Any person who knowingly sells or offers for sale material depicting a sex act involving sado-masochistic abuse, excretory functions, a child, or bestiality which the average adult taking the material as a whole in applying contemporary community standards would find that it appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value shall, upon conviction be guilty of a simple misdemeanor. Charges under this section may only be brought by a county attorney, or by the attorney general,~~or a grand jury.~~

Sec. 60. Section seven hundred twenty-nine point one (729.1), Code 1977 Supplement, is amended to read as follows:
729.1 RELIGIOUS TEST.

Any violation of section 4, Article I of the Constitution of Iowa is hereby declared to be a serious misdemeanor.

Sec. 61. Section seven hundred twenty-nine point three (729.3), Code 1977 Supplement, is amended to read as follows:
729.3 PENALTY.

Any person, agency, bureau, corporation, or association that violates provisions of sections 729.1 and 729.2 shall be guilty of a simple misdemeanor ~~and upon conviction be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned not more than thirty days, or by both such fine and imprisonment.~~

Sec. 62. Section seven hundred twenty-nine point four (729.4), subsection three (3), Code 1977 Supplement, is amended to read as follows:

3. Any person, employer, labor union or organization or officer of a labor union or organization convicted of a violation of subsections 1 or 2 shall be ~~punished by a fine not to exceed one hundred dollars or imprisonment in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 63. Section seven hundred thirty point one (730.1), Code 1977 Supplement, is amended to read as follows:
730.1 PUNISHMENT.

If any person, agent, company, or corporation, after having discharged any employee from ~~his or its~~ service, shall prevent or attempt to prevent, by word or writing of any kind, such discharged employee from obtaining employment with any other person, company, or corporation, except by furnishing in writing on request a truthful statement as to the cause of ~~his~~ the person's discharge, such person, agent, company, or corporation shall be ~~punished by a fine not exceeding five hundred nor less than one hundred dollars,~~ guilty of a serious misdemeanor and shall be liable for all damages sustained by any such person.

Sec. 64. Section seven hundred thirty point three (730.3), Code 1977 Supplement, is amended to read as follows:
730.3 FALSE CHARGES CONCERNING HONESTY.

Every person who shall by any letter, mark, sign, or designation whatever, or by any verbal statement, falsely and without probable cause, report to any railroad or any other company or corporation, or to any person or firm, or to any of the officers, servants, agents, or employees of any such corporation, person, or firm, that any conductor, brakeman, engineer, fireman, station agent, or any employee of such railroad company, corporation, person, or firm has received any money or thing of value for the transportation of persons or property or for other service for which he the person has not accounted to such corporation, person, or firm, or shall falsely and without probable cause report that any conductor, brakeman, engineer, fireman, station agent, or

other employee of any railroad company, corporation, firm, or person, neglected, failed, or refused to collect any money or ticket for transportation of persons or property or other service when it was their duty so to do, shall, on conviction, be ~~adjudged guilty of a simple misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars or be imprisoned in the county jail for a period not exceeding thirty days.~~

Sec. 65. Section seven hundred thirty-one point six (731.6), Code 1977 Supplement, is amended to read as follows:
731.6 PENALTY.

Any person, firm, association, labor organization, or corporation or any director, officer, representative, agent or member thereof, who shall violate any of the provisions of this chapter or who shall aid and abet in such violation shall be deemed guilty of a serious misdemeanor.

Sec. 66. Section seven hundred thirty-two point four (732.4), Code 1977 Supplement, is amended to read as follows:
732.4 PENALTY.

Any person, or any labor union, labor association or labor organization or any officer, representative, agent or member thereof who shall violate any of the provisions of this chapter shall be deemed guilty of a simple misdemeanor ~~and shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for a period of not more than thirty days.~~

Sec. 67. Section eight hundred one point four (801.4), subsection eleven (11), Code 1977 Supplement, is amended to read as follows:

11. "Complaint" means a statement in writing, under oath or affirmation, made before a magistrate or district court clerk or clerk's deputy as the case may be, of the commission of a public offense, and accusing someone thereof. A complaint shall be substantially in the form provided in the Iowa rules of criminal procedure.

Sec. 68. Section eight hundred four point one (804.1),

unnumbered paragraph two (2), Code 1977 Supplement, is amended to read as follows:

Whenever the complaint charges a simple misdemeanor, the magistrate may ~~in his or her discretion~~ issue a citation instead of a warrant of arrest. The citation shall set forth substantially the nature of the offense and shall command the person against whom the complaint was made to appear before the magistrate issuing the citation at a time and place stated therein.

Sec. 69. Section eight hundred four point twenty-three (804.23), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

The officer shall, without unnecessary delay, take the person arrested pursuant to ~~section 804.9~~ eight hundred four point eleven (804.11) of the Code Supplement before the nearest or most accessible magistrate to the place where the arrest occurred.

Sec. 70. Section eight hundred five point six (805.6), subsection one (1), paragraph c, unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

Unless the officer issuing the citation arrests the alleged offender, or permits admission or requires submission of bail as provided in section 805.9, subsection 3, the officer shall enter in the blank contained in the statement required by paragraph "a b" of this subsection one of the following amounts and shall require the person to sign the written appearance:

Sec. 71. Section eight hundred five point eight (805.8), subsection two (2), paragraph b, Code 1977 Supplement, is amended to read as follows:

b. For registration violations under sections 321.17, 321.32, 321.34, 321.37, 321.38, 321.41, and ~~321.490~~ subsection three (3) of section three hundred twenty-one point one hundred eighty-nine (321.189) of the Code, the scheduled fine is five dollars. For violations of ~~section 321.490~~ subsection three (3) of section three hundred twenty-one point one hundred eighty-nine (321.189) of the Code, the case shall be dismissed

without imposition of fine or costs if a license valid at the time of the issuance of the citation is presented by the defendant to the magistrate or scheduled violations office.

Sec. 72. Section eight hundred eleven point one (811.1), Code 1977 Supplement, is amended to read as follows:
811.1 BAILABLE AND NONBAILABLE OFFENSES.

All defendants are bailable both before and after conviction, by sufficient surety, or subject to release upon condition or on their own recognizance, except that a defendant convicted of a class A felony shall not be admitted to bail while appealing such conviction ~~or seeking post-conviction relief.~~

Sec. 73. Section eight hundred eleven point five (811.5), Code 1977 Supplement, is amended to read as follows:
811.5 BAIL ON APPEAL.

After conviction, upon appeal to the supreme appellate court, the defendant must be admitted to bail, if it be from the judgment imposing a fine, upon the undertaking of bail that the defendant will, in all respects, abide the orders and the judgment of the supreme appellate court upon appeal; if from a judgment of imprisonment, except as provided in section 811.1 upon the undertaking of bail that the defendant will surrender ~~himself or herself~~ in execution of the judgment and direction of the supreme appellate court, and in all respects abide the orders and judgment of the supreme appellate court upon the appeal. Such bail may be taken, either by the court where the judgment was rendered, or the district court of the county in which the defendant is imprisoned, or by the supreme appellate court, or a judge or clerk of any of such courts. Provided, that in lieu of bail, bailable defendants as described herein may be released in accordance with the provisions of section 811.2.

Sec. 74. Section eight hundred fourteen point five (814.5), subsection two (2), paragraph a, Code 1977 Supplement, is amended to read as follows:

a. An order ~~quashing~~ dismissing an arrest or search

warrant.

Sec. 75. Section eight hundred fifteen point seven (815.7), Code 1977 Supplement, is amended to read as follows:
815.7 FEES TO ATTORNEYS.

An attorney appointed by the court to represent any person charged with a crime in this state shall be entitled to a reasonable compensation which shall be the ordinary and customary charges for like services in the community to be decided in each case by a judge of the district judge court, including such sum or sums as the court may determine are necessary for investigation in the interests of justice and in the event of appeal the cost of obtaining the transcript of the trial and the printing of the trial record and necessary briefs in behalf of the defendant. Such attorney need not follow the case into another county or into the appellate court unless so directed by the court at the request of the defendant, where grounds for further litigation are not capricious or unreasonable, but if such attorney does so his or her fee shall be determined accordingly. Only one attorney fee shall be so awarded in any one case except that in class A felony cases, two may be authorized.

Sec. 76. Section eight hundred twenty point eleven (820.11), Code 1977 Supplement, is amended to read as follows:
820.11 PENALTY FOR WILLFUL DISOBEDIENCE.

Any officer who shall deliver to the agent for extradition of the demanding state a person in ~~his~~ the officer's custody under the governor's warrant, in willful disobedience to the last section, shall be guilty of a simple misdemeanor ~~and, on conviction, shall be fined not more than one hundred dollars or be imprisoned not more than thirty days.~~

Sec. 77. Section eight hundred twenty point seventeen (820.17), Code 1977 Supplement, is amended to read as follows:
820.17 DISCHARGE OR RECOMMITMENT.

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge ~~him or may recommit~~

~~him~~ or recommit the accused for a further period not to exceed sixty days, or a judge or magistrate judge may again take bail for ~~his~~ the accused's appearance and surrender, as provided in section 820.16, but within a period not to exceed sixty days after the date of such new bond.

Sec. 78. Section eight hundred twenty-one point four (821.4), Code 1977 Supplement, is amended to read as follows:
821.4 HABITUAL CRIMINALS.

Nothing in this chapter or in the agreement on detainers shall be construed to require the application of ~~chapter-747~~ section nine hundred two point eight (902.8) of the Code Supplement to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of this agreement.

Sec. 79. Section nine hundred one point two (901.2), unnumbered paragraph two (2), Code 1977 Supplement, is amended to read as follows:

The court may withhold execution of any judgment or sentence for such time as shall be reasonably necessary for an investigation with respect to deferment of judgment, deferment of sentence, or suspension of sentence and probation. The investigation shall be made by the judicial district department of correctional services.

Sec. 80. Section nine hundred one point four (901.4), Code 1977 Supplement, is amended to read as follows:
901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

The court may, in its discretion, make the presentence investigation report or parts of it available to the defendant, or the court may make the report or parts of it available while concealing the identity of the person who provided confidential information. The report of any medical examination or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. Such reports shall be part of the record but shall be sealed and opened only on order of the court. In any case where the defendant is committed to the custody of the division

of adult corrections and is not a class A felon, a copy of the presentence investigation report shall be sent to the director at the time of commitment.

Sec. 81. Section nine hundred one point five (901.5), Code 1977 Supplement, is amended by adding the following new subsections:

NEW SUBSECTION. If authorized by section nine hundred seven point three (907.3) of the Code Supplement, the court may defer the sentence and assign the defendant to the judicial district department of correctional services.

NEW SUBSECTION. The court may pronounce judgment and sentence the defendant to confinement and then reconsider the sentence as provided by section nine hundred two point four (902.4) or nine hundred three point two (903.2) of the Code Supplement.

Sec. 82. Section nine hundred two point one (902.1), Code 1977 Supplement, is amended to read as follows:
902.1 CLASS A FELONY.

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a class A felony may be rendered, the court shall enter a judgment of conviction and shall commit the defendant into the custody of the director of the division of adult corrections for the rest of ~~his-or-her~~ the defendant's life. Nothing in the Iowa corrections code pertaining to deferred judgment, deferred sentence, suspended sentence, or probation reconsideration of sentence shall apply to a class A felony, and no person convicted of a class A felony shall be released on parole unless the governor commutes the sentence to a term of years.

Sec. 83. Section nine hundred two point six (902.6), Code 1977 Supplement, is amended to read as follows:
902.6 RELEASE.

A person who has been committed to the custody of the director of the division of adult corrections shall remain in such custody until ~~his-or-her-release~~ released by the order of the board of parole, in accordance with the law governing

paroles, or by order of the judge after reconsideration of a felon's sentence pursuant to section nine hundred two point four (902.4) of the Code Supplement, or until the maximum term of the person's confinement, as fixed by law, has been completed.

Sec. 84. Section nine hundred seven point three (907.3), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

Pursuant to section 901.5, the trial court may, upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, exercise either any of the options contained in subsections 1 and 2 of this section. However, this section shall not apply to a forcible felony or a violation of section 204.401, subsection 1 or 2, to which section 204.409, subsection 2 is not applicable and which is not proved to be an accommodation offense under section 204.410.

Sec. 85. Section nine hundred seven point four (907.4), Code 1977 Supplement, is amended to read as follows:
907.4 DEFERRED JUDGMENT DOCKET.

Any deferment of judgment under section 907.3 shall be reported promptly by the clerk of the district court to the supreme court administrator who shall maintain a permanent record thereof including the name of the defendant, the district court docket number, the nature of the offense, and the date of the deferment. Before granting deferment in any case, the court shall request of the supreme court administrator a search of the deferred judgment docket and shall consider any prior record of a deferment of judgment against the defendant. The permanent record provided for in this section shall constitute a confidential record exempted from public access under section 68A.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, and judicial magistrates requesting information pursuant to this section or the designee of such justice, judge, or magistrate.

Sec. 86. Section nine hundred seven point five (907.5), Code 1977 Supplement, is amended to read as follows:
907.5 STANDARDS FOR RELEASE ON PROBATION--WRITTEN REASONS.

Before deferring judgment, deferring sentence, or suspending sentence, the court first shall determine which option, if available, will provide maximum opportunity for the rehabilitation of the defendant and protection of the community from further offenses by the defendant and others. In making this determination the court shall consider the age of the defendant; the defendant's prior record of convictions and prior record of deferments of judgment if any; the defendant's employment circumstances; the defendant's family circumstances; the nature of the offense committed; and such other factors as are appropriate. The court shall file a specific written statement of its reasons for and the facts supporting its decision to defer judgment, to defer sentence, or to suspend sentence, and its decision on the length of probation.

Sec. 87. Section nine hundred seven point seven (907.7), unnumbered paragraph two (2), Code 1977 Supplement, is amended to read as follows:

The length of the probation shall not be less than one year if the offense is a misdemeanor and shall not be less than two years if the offense is a felony. However, the court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled. The purposes of probation are to provide maximum opportunity for the rehabilitation of the defendant and to protect the community from further offenses by the defendant and others.

Sec. 88. Section nine hundred seven point twelve (907.12), subsection one (1), paragraph c, and subsection three (3), Code 1977 Supplement, is amended to read as follows:

c. "Criminal activities" includes any crime for which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction may be rendered and any other crime committed after July 1, 1972 which is

admitted or not contested by the defendant, whether or not prosecuted. However, "criminal activities" does not include simple misdemeanors under chapter 321.

3. If the trial court exercises either any of the sentencing options under section 907.3, the court shall require as a condition of probation that the defendant, in cooperation with the probation officer assigned to the defendant, promptly prepare a plan of restitution, including a specific amount of restitution to each victim and a schedule of restitution payments. If the defendant is presently unable to make any restitution but there is a reasonable possibility that the defendant may be able to do so at some time during his-or her the probation period, the plan of restitution shall also state the conditions under which or the event after which the defendant will make restitution. If the defendant believes that he-or-she the defendant will not be able to make any restitution, the defendant shall so state and shall specify the reasons. If the defendant believes that no person suffered pecuniary damages as a result of the defendant's criminal activities, he-or-she the defendant shall so state.

Sec. 89. Section one hundred nine point one hundred nineteen (109.119), Code 1977, is repealed.

Sec. 90. Section two hundred forty-five point twenty-one (245.21), Code 1977 Supplement, is repealed.

Sec. 91. Chapter one thousand two hundred forty-five (1245), Acts of the Sixty-sixth General Assembly, 1976 Session, chapter four (4), section four hundred eighty-nine (489), is amended to read as follows:

SEC. 489. Section six hundred two point sixty-two (602.62), Code 1975, is amended to read as follows:

602.62 PROCEDURE. The criminal procedure before judicial magistrates shall be as provided in ~~chapters 753, 754 to 763, 765, 766, and 768~~ chapter ~~one-44~~ two (2), divisions four (IV), six (VI), eight (VIII), eleven (XI) of this Act, rules two (2) and thirty-two (32) through forty-six (46), rules of criminal procedure, and chapter seven hundred fifty-nine

(759) of the Code. The civil procedure before judicial magistrates shall be as provided in chapters 631 and 648.

Sec. 92. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter sixty-six (66), is amended by striking section nine (9).

Sec. 93. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter eighty-seven (87), section one (1), unnumbered paragraph one (1), is amended to read as follows:

It is the intent of this Act that there be made available within the state correctional institutions opportunities for employment of inmates in meaningful jobs ~~at wages commensurate with those paid persons employed in similar jobs outside the correctional institutions,~~ with the following objectives:

Sec. 94. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter eighty-seven (87), section ten (10), subsection three (3), is amended to read as follows:

3. Except as prohibited by applicable provisions of the United States Code, inmates of adult correctional institutions of this state may be employed in the manufacture and processing of products for introduction into interstate or intrastate commerce, so long as they are paid ~~no less than the prevailing minimum wage~~ wages commensurate with those paid persons employed in similar jobs outside the correctional institutions.

Sec. 95. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter eighty-seven (87), section twelve (12), is amended to read as follows:

SEC. 12. Effective July 1, 1978, and notwithstanding any other provisions of this Act, goods made available by Iowa State Industries shall be restricted to items, materials, supplies and equipment which are formulated and/or manufactured by Iowa State Industries and shall not include goods, materials, supplies or equipment which are merely purchased by Iowa State Industries for repacking or resale except with approval of the state director when such repacking for resale items are directly related to product lines.

Sec. 96. Acts of the Sixty-seventh General Assembly, 1977

Session, chapter one hundred fifty-four (154), is amended by striking section thirty-one (31).

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2200, Sixty-seventh General Assembly.

KEVIN P. LIGHT
Acting Secretary of the Senate

Approved June 13, 1978

ROBERT D. RAY
Governor