

Sec. 17. A public office providing indigent defense which is in existence on December 31, 1988, shall become an office of a local public defender under the authority and supervision of the state public defender unless the state public defender determines the office should cease to operate.

Sec. 18. REPEALS. Sections 331.775 through 331.777, Code 1987, are repealed. However, this Act shall not affect the existing terms of office for the appellate defender or public defenders. This Act does not authorize a reduction in compensation provided by the state or a county to any employee of the state appellate defender's office or a public defender's office.

Sec. 19. This Act does not affect a contract in effect at the time of enactment of this section relating to office space, or other services or equipment to be provided to a public defender. However, a county or public defender shall not enter into a contract for any services to be provided to the public defender after enactment of this section without the approval of the department of inspections and appeals.

Sec. 20. For the period beginning January 1, 1989, and ending June 30, 1989, the judicial branch shall reimburse the department of inspections and appeals out of funds appropriated to the judicial branch for the costs of adult indigent defense and costs of juvenile proceedings including attorney and witness fees.

Sec. 21. EFFECTIVE DATES.

1. Section 18 of this Act, being deemed of immediate importance, is effective upon enactment.
2. Sections 1 through 10, 12 through 14, and section 19 of this Act are effective January 1, 1989.

Approved May 5, 1988

CHAPTER 1162

CONSTRUCTION CONTRACTOR REGISTRATION

S.F. 2318

AN ACT relating to the registration of construction contractors; providing for administration and enforcement of a system of registration by the labor commissioner; providing for administrative penalties; providing an effective date; and providing other properly related matters.

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

Section 1. Section 96.11, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 14. For purposes of contractor registration under chapter 549, the division of job service shall provide for the issuance of special contractor numbers to contractors for whom employer accounts are not required under this chapter. A contractor who is not in compliance with the requirements of this chapter shall not be issued a special contractor number.

Sec. 2. **NEW SECTION. 549.1 DEFINITION — EXEMPTION.**

1. As used in this chapter, unless the context otherwise requires, "contractor" means a person who engages in the business of construction, as the term "construction" is defined in section 345-3.82 (96), Iowa Administrative Code, for purposes of the Iowa employment security law. However, a person who earns less than one thousand dollars annually or who performs

work or has work performed on the person's own property is not a contractor for purposes of this chapter.

2. If a contractor's registration application shows that the contractor is self-employed, does not pay more than one thousand dollars annually to employ other persons in the business, and does not work with or for other contractors in the same phases of construction, the contractor is exempt from the fee requirements under this chapter.

Sec. 3. NEW SECTION. 549.2 REGISTRATION REQUIRED – CONDITIONS.

A contractor doing business in this state shall register with the labor commissioner and shall meet both of the following requirements as a condition of registration:

1. The contractor shall be in compliance with the laws of this state relating to workers' compensation insurance and shall provide evidence of workers' compensation insurance coverage annually, of relief from the insurance requirement pursuant to section 87.11, or of compliance with the notice provision of section 87.2. Notice of a policy's cancellation shall be provided to the labor commissioner by the insurance company.

2. The contractor shall possess an employer account number or a special contractor number issued by the division of job service of the department of employment services pursuant to the Iowa employment security law.

Sec. 4. NEW SECTION. 549.3 APPLICATION – INFORMATION TO BE PROVIDED.

The registration application shall be in the form prescribed by the labor commissioner, shall be accompanied by the registration fee prescribed pursuant to section 549.4, and shall contain information which is substantially complete and accurate. In addition to the information determined by the labor commissioner to be necessary for purposes of section 549.2, the application shall include information as to each of the following:

1. The name, principal place of business in this state, address, and telephone number of the contractor.

2. The name, address, telephone number, and position of each officer of the contractor, if the contractor is a corporation, or each owner if the contractor is not a corporation.

3. A description of the business, including the principal products and services provided. Any change in the information provided shall be reported promptly to the labor commissioner.

Sec. 5. NEW SECTION. 549.4 FEES.

The labor commissioner shall prescribe the fee for registration, which fee shall not exceed twelve dollars and fifty cents. All fees collected shall be deposited in the general fund of the state.

Sec. 6. NEW SECTION. 549.5 PUBLIC REGISTRATION NUMBER – RECORDS.

The labor commissioner shall issue to each registered contractor an identifying public registration number and shall compile records showing the names and public registration numbers of all contractors registered in the state. These records and the complete registration information provided by each contractor are public records and the labor commissioner shall take steps as necessary to facilitate access to the information by governmental agencies and the general public.

Sec. 7. NEW SECTION. 549.6 RULES.

The labor commissioner shall adopt rules, pursuant to chapter 17A, determined to be reasonably necessary for the administration and enforcement of the system of contractor registration established by this chapter.

Sec. 8. NEW SECTION. 549.7 STATE CONTRACTS.

A contractor who is not registered with the labor commissioner as required by this chapter shall not be awarded a contract to perform work for the state or an agency of the state.

Sec. 9. NEW SECTION. 549.8 INVESTIGATIONS — ENFORCEMENT — ADMINISTRATIVE PENALTIES.

1. The labor commissioner and inspectors of the division of labor services of the department of employment services have jurisdiction for investigation and enforcement in cases where contractors may be in violation of the requirements of this chapter or rules adopted pursuant to this chapter.

2. If, upon investigation, the labor commissioner or the commissioner's authorized representative believes that a contractor has violated either of the following, the commissioner shall with reasonable promptness issue a citation to the contractor:

a. The requirement that a contractor be registered.

b. The requirement that the contractor's registration information be substantially complete and accurate.

Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the statute alleged to have been violated.

If a citation is issued, the commissioner shall, within seven days, notify the contractor by certified mail of the administrative penalty, if any, proposed to be assessed and that the contractor has fifteen working days within which to notify the commissioner that the employer wishes to contest the citation or proposed assessment of penalty.

The administrative penalties which may be imposed under this section shall be not more than five hundred dollars in the case of a first violation and not more than five thousand dollars for each violation in the case of a second or subsequent violation. All administrative penalties collected pursuant to this chapter shall be deposited in the general fund of the state.

If, within fifteen working days from the receipt of the notice, the contractor fails to notify the commissioner that the contractor intends to contest the citation or proposed assessment of penalty, the citation and the assessment, as proposed, shall be deemed a final order of the employment appeal board and not subject to review by any court or agency.

If the contractor notifies the commissioner that the contractor intends to contest the citation or proposed assessment of penalty, the commissioner shall immediately advise the employment appeal board established by section 10A.601. The employment appeal board shall review the action of the commissioner and shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the commissioner's citation or proposed penalty or directing other appropriate relief, and the order shall become final sixty days after its issuance.

The labor commissioner shall notify the department of revenue and finance upon final agency action regarding the citation and assessment of penalty against a registered contractor.

Judicial review of any order of the employment appeal board issued pursuant to this section may be sought in accordance with the terms of chapter 17A. If no petition for judicial review is filed within sixty days after service of the order of the employment appeal board, the appeal board's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the commissioner after the expiration of the sixty-day period. In any such case, the clerk of court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of the decree to the employment appeal board and the contractor named in the petition.

Sec. 10. Section 10A.601, subsections 1 and 7, Code 1987, are amended to read as follows:

1. A full-time employment appeal board is created within the department of inspections and appeals to hear and decide contested cases under chapters 19A, 80, 88, 96, 97B, ~~and 104~~, and 549.

7. An application for rehearing before the appeal board shall be filed pursuant to section 17A.16, unless otherwise provided in chapter 19A, 80, 88, 96, 97B, ~~or 104~~, or 549. A petition for judicial review of a decision of the appeal board shall be filed pursuant to section 17A.19. The appeal board may be represented in any such judicial review by an attorney who is a regular salaried employee of the appeal board or who has been designated by the appeal board for

that purpose, or at the appeal board's request, by the attorney general. Notwithstanding the petitioner's residency requirement in section 17A.19, subsection 2, a petition for judicial review may be filed in the district court of the county in which the petitioner was last employed or resides, provided that if the petitioner does not reside in this state, the action shall be brought in the district court of Polk county, Iowa, and any other party to the proceeding before the appeal board shall be named in the petition. Notwithstanding the thirty-day requirement in section 17A.19, subsection 6, the appeal board shall, within sixty days after filing of the petition for judicial review or within a longer period of time allowed by the court, transmit to the reviewing court the original or a certified copy of the entire records of a contested case. The appeal board may also certify to the court, questions of law involved in any decision by the appeal board. Petitions for judicial review and the questions so certified shall be given precedence over all other civil cases except cases arising under the workers' compensation law of this state. No bond shall be required for entering an appeal from any final order, judgment, or decree of the district court to the supreme court.

Sec. 11. EFFECTIVE DATE. This Act takes effect July 1, 1988, for purposes of rulemaking and administrative preparation and February 15, 1989, for all other purposes.

Approved May 5, 1988

CHAPTER 1163

CIVIL RIGHTS VIOLATIONS

H.F. 185

AN ACT relating to violations of a person's civil rights and providing penalties.

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

Section 1. **NEW SECTION. 729.5 PROHIBITING VIOLATIONS OF AN INDIVIDUAL'S CIVIL RIGHTS — PENALTIES.**

1. Persons within the state of Iowa have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, or sex.

2. A person who conspires with another person or persons to injure, oppress, threaten, or intimidate or interfere with any citizen in the free exercise or enjoyment of any right or privilege secured to that person by the constitution or laws of the state of Iowa or by the constitution or laws of the United States, and assembles with one or more persons for the purpose of teaching or being instructed in any technique or means capable of causing property damage, bodily injury or death when the person or persons intend to employ those techniques or means in furtherance of the conspiracy, is on conviction, guilty of a class "D" felony.

3. The fact that a person committed a felony or misdemeanor, or attempted to commit a felony, because of the victim's race, color, religion, nationality, country of origin, political affiliation, or sex, shall be considered a circumstance in aggravation of any crime in imposing sentence.

4. This section does not make unlawful the teaching of any technique in self-defense.

5. This section does not make unlawful any activity of:

a. Law enforcement officials of this or any other jurisdiction while engaged in the lawful performance of their official duties;

b. Federal officials required to carry firearms while engaged in the lawful performance of their official duties;