

Sec. 21.

Sections 1, 6, 8, and 9 of this Act are effective January 1, 1991, for mobile home tax claims and property tax credit claims filed on or after that date. Section 8 of this Act is applicable to rent reimbursement claims filed on or after January 1, 1992. Section 6 of this Act is also applicable to rent reimbursement claims filed on or after January 1, 1992.

Sec. 22.

Sections 10 through 17 are effective January 1, 1991, for family farm tax credits allowed for property taxes payable in fiscal years beginning on or after July 1, 1991.

Sec. 23.

Section 5 of this Act is effective January 1, 1991, for homestead tax credits allowed for property taxes payable in fiscal years beginning on or after July 1, 1991.

Sec. 24.

Section 18 of this Act takes effect July 1, 1991.

Sec. 25.

Section 7 of this Act is applicable for assessment years beginning on or after July 1, 1991.

Approved May 6, 1990

CHAPTER 1251

JUVENILE AND ADULT OFFENDERS AND OFFENSES, INCLUDING RELATED TAX PROVISIONS

S.F. 2413

AN ACT relating to certain specific crimes and the disposition of offenders by providing for payment of sexual abuse medical examinations, providing for workers' compensation coverage and the liability of certain persons performing community service, providing for notification of the parents of persons under age eighteen discovered to be in possession of alcohol or drugs, providing for a term of confinement for distribution of illegal drugs within one thousand feet of a public park, providing for the reporting and identification of certain precursor drugs, providing for the disposition of certain juvenile offenders, establishing institutional reading room requirements, providing for the diversion of certain offenders to treatment facilities, providing that certain persons serving mandatory minimum sentences serve a portion of their sentence on work release, establishing a penalty for certain persons who cause a serious injury to another while operating a motor vehicle, providing for certain offenders to serve their sentence on consecutive days, providing for posttreatment services as a condition of probation, establishing a tax on marijuana and controlled substances, providing an expansion of the business deduction for businesses employing individuals on parole, probation, work release, or convicted of a felony, establishing penalties for participation in criminal gang activity, providing for the nonbailability of certain offenders, providing requirements for presentence investigations, providing for early release of offenders participating in certain treatment or for certain property offenders, making certain changes relating to conditions of parole and work release, authorizing parole and probation officers to discharge certain offenders, making certain changes relating to the victim reparation program, establishing a pilot project for the chemical testing of persons arrested for felony offenses, and providing penalties.

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

Section 1. Section 13.31, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Administer payment for sexual abuse medical examinations pursuant to section 709.10.

Sec. 2. Section 25A.2, subsection 3, Code Supplement 1989, is amended to read as follows:

3. "Employee of the state" includes any one or more officers, agents, or employees of the state or any state agency, including members of the general assembly, and persons acting on behalf of the state or any state agency in any official capacity, temporarily or permanently in the service of the state of Iowa, whether with or without compensation but does not include a contractor doing business with the state. Professional personnel, including physicians, osteopathic physicians and surgeons, osteopathic physicians, optometrists and dentists, who render services to patients and inmates of state institutions under the jurisdiction of the department of human services or the Iowa department of corrections are to be considered employees of the state, whether the personnel are employed on a full-time basis or render services on a part-time basis on a fee schedule or other arrangement. Criminal defendants while performing unpaid community service ordered by the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 246.703, are to be considered employees of the state.

Sec. 3. Section 85.59, unnumbered paragraphs 2, 4, and 5, Code 1989, is amended to read as follows:

For purposes of this section, "inmate" includes a person who is performing unpaid community service under sections 907.13 and 910.2 the direction of the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 246.703, or who is performing a work assignment of value to the state or to the public under chapter 232.

If an inmate is permanently incapacitated by injury in the performance of the inmate's work in connection with the maintenance of the institution or in an industry maintained in the institution, while on detail to perform services on a public works project, or is permanently or temporarily incapacitated in connection with the performance of unpaid community service under sections 907.13 and 910.2 the direction of the district court, board of parole, or judicial district department of correctional services, or in connection with the provision of services pursuant to a chapter 28E agreement entered into pursuant to section 246.703, or who is performing a work assignment of value to the state or to the public under chapter 232, that inmate shall be awarded only the benefits provided in section 85.27 and section 85.34, subsections 2 and 3. The weekly rate for such permanent disability is equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the department of employment services under section 96.19, subsection 42, and in effect at the time of the injury.

Weekly compensation benefits under this section may be determined prior to the inmate's release from the institution, but payment of benefits to an inmate shall commence as of the time of the inmate's release from the institution either upon parole or final discharge. However, if the inmate is awarded benefits for an injury incurred in connection with the performance of unpaid community service under sections 907.13 and 910.2 the direction of the district court, board of parole, or judicial district department of correctional services, or in connection with the provision of services pursuant to a chapter 28E agreement entered into pursuant to section 246.703, or who is performing a work assignment of value to the state or to the public under chapter 232, weekly compensation benefits under this section shall be determined and paid as in other workers' compensation cases.

Sec. 4. **NEW SECTION. 123.47B PARENTAL NOTIFICATION – PERSONS UNDER EIGHTEEN YEARS OF AGE.**

A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in possession of alcoholic liquor, wine, or beer in violation of section 123.47 and if the person is not referred to juvenile court, the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial

parent or legal guardian of such possession, whether or not the person is arrested or a citation is issued pursuant to section 805.16, unless the officer has reasonable grounds to believe that such notification is not in the best interests of the person or will endanger that person. A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first class mail.

Sec. 5. NEW SECTION. 204.401A DISTRIBUTION TO PERSONS ON CERTAIN REAL PROPERTY.

In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older who unlawfully distributes a substance or counterfeit substance listed in schedule I or II which is a narcotic or cocaine, or a simulated controlled substance represented to be a narcotic or cocaine classified in schedule I or II, to another person who is eighteen years of age or older in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, may, at the judge's discretion, be sentenced up to an additional term of confinement of five years.

Sec. 6. Section 204.406, subsection 1, paragraph a, Code Supplement 1989, is amended to read as follows:

a. Unlawfully distributes a substance listed in schedule I or II, which is a narcotic or cocaine, to a person under eighteen years of age commits a class "B" felony and shall serve a minimum term of confinement of five years. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, the person shall serve a minimum term of confinement of ten years.

Sec. 7. Section 204.406, subsection 2, paragraph a, Code Supplement 1989, is amended to read as follows:

a. Unlawfully distributes a counterfeit substance listed in schedule I or II which is a narcotic or cocaine, or a simulated controlled substance represented to be a narcotic or cocaine classified in schedule I or II, to a person under eighteen years of age commits a class "B" felony. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, the person shall serve a minimum term of confinement of ten years.

Sec. 8. NEW SECTION. 204.415 PARENTAL NOTIFICATION – PERSONS UNDER EIGHTEEN YEARS OF AGE.

A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in possession of a controlled substance, counterfeit substance, or simulated controlled substance in violation of this chapter, and if the person is not referred to juvenile court the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of such possession, whether or not the person is arrested, unless the officer has reasonable grounds to believe that such notification is not in the best interests of the person or will endanger that person. A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first class mail.

Sec. 9. NEW SECTION. 204.416 EXCEPTION TO NONBAILABLE OFFENSE.

Notwithstanding section 811.1, the court, in its discretion, may admit a person convicted of a violation of section 204.401, subsection 1 or 2, or of a violation of section 204.406, to bail if the prosecuting attorney in the action and the defendant's counsel jointly petition the court to admit the person to bail.

Sec. 10. NEW SECTION. 204B.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Board" means the board of pharmacy examiners.
2. "Controlled substance" means a controlled substance as defined in section 204.101.
3. "Practitioner" means a practitioner as defined in section 155A.3.
4. "Precursor substance" means a substance which may be used as a precursor in the illegal production of a controlled substance and is specified under section 204B.2.
5. "Recipient" means a person in this state who purchases, transfers, or otherwise receives a precursor substance.
6. "Vendor" means a person who manufactures, wholesales, retails, or otherwise sells, transfers, or furnishes in this state a precursor substance.

Sec. 11. NEW SECTION. 204B.2 REPORTING REQUIRED.

1. Effective July 1, 1990, a report to the board shall be submitted in accordance with this chapter by a manufacturer, retailer, or other person who sells, transfers, or otherwise furnishes to any person in this state any of the following substances:

- a. Anthranilic acid and its salts.
- b. Benzyl Cyanide.
- c. Ephedrine, its salts, optical isomers, and salts of optical isomers.
- d. Ergonovine and its salts.
- e. Ergotamine and its salts.
- f. 3,4 - methylenedioxyphenyl-2-propanone.
- g. N-acetylanthranilic acid and its salts.
- h. Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers.
- i. Phenylacetic acid and its salts.
- j. Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers.
- k. Piperidine and its salts.
- l. Pseudoephedrine, its salts, optical isomers, and salts of optical isomers.

2. The board shall administer the regulatory provisions of this chapter and may, by rule adopted pursuant to chapter 17A, add a substance to or remove a substance from the list in subsection 1. In determining whether to add or remove a substance from the list, the board shall consider the following:

- a. The likelihood that the substance may be used as a precursor in the illegal production of a controlled substance.
 - b. The availability of the substance.
 - c. The appropriateness of including the substance under this chapter or under chapter 204.
 - d. The extent and nature of legitimate uses for the substance.
3. On or before November 1 of each year, the board shall inform the general assembly of any substances added, deleted, or changed in the list contained in section 204B.2 and shall provide an explanation of any addition, deletion, or change.

Sec. 12. NEW SECTION. 204B.3 IDENTIFICATION REQUIRED.

1. Before selling, transferring, or otherwise furnishing any substance specified in section 204B.2 to a person in this state, a vendor shall require proper identification from the purchaser.

2. For the purposes of this section, in the case of a face-to-face purchase, "proper identification" means all of the following:

- a. A motor vehicle operator's license containing the purchaser's photograph and residential or mailing address, other than a post office box number, or any other official state-issued identification containing this information.
- b. The motor vehicle license number of the vehicle owned or operated by the purchaser.
- c. A letter of authorization from the person who is making the purchase. The letter shall include the person's business license number and business address, a description as to how the substance will be used, and the purchaser's signature. The vendor shall affix the vendor's signature as a witness to the signature and identification of the purchaser.

3. The board shall provide by rule for the form of proper identification required for purchases which are not face to face.

4. A person who violates this section or rules adopted pursuant to this section commits a simple misdemeanor.

Sec. 13. NEW SECTION. 204B.4 VENDOR REPORTING.

1. At least twenty-one days prior to the delivery of a precursor substance to a recipient, the vendor shall submit a report of the transaction to the board. The report must contain the identification information specified under section 204B.3. However, if regular, repeated transactions of a particular precursor substance occur between the vendor and the recipient, the board may authorize the vendor to report the transactions monthly if either of the following conditions exists:

a. A pattern of regular supply of the precursor substance exists between the vendor and the recipient.

b. The recipient has established a record of lawfully using the precursor substance.

2. A vendor who does not submit a report pursuant to this section commits a serious misdemeanor.

Sec. 14. NEW SECTION. 204B.5 RECEIPT OF SUBSTANCE FROM OUTSIDE THE STATE — PENALTY.

1. A vendor, recipient, or other person required to report pursuant to this chapter who receives a precursor substance from a source outside the state shall submit a report to the board pursuant to rules adopted by the board.

2. A person who does not submit a report required under this section commits a serious misdemeanor.

Sec. 15. NEW SECTION. 204B.6 EXCEPTIONS.

The requirements of sections 204B.2 through 204B.5 do not apply to any of the following:

1. A licensed pharmacist or other person authorized under chapter 155A to sell or furnish a precursor substance upon the prescription of a practitioner.

2. A practitioner who administers or furnishes a precursor substance to a patient.

3. A vendor who holds a permit issued by the board and who sells, transfers, or otherwise furnishes a precursor substance to a practitioner or a pharmacy as defined in section 155A.3.

4. A sale, transfer, furnishing, or receipt of a drug containing ephedrine, phenylpropanolamine, or pseudoephedrine or of a cosmetic containing a precursor substance if the drug or cosmetic is lawfully sold, transferred, or furnished over the counter without a prescription in accordance with chapter 203B.

Sec. 16. NEW SECTION. 204B.7 REPORTING FORM.

1. The board shall adopt rules prescribing a common form for the filing of reports required under this chapter. The rules shall provide that the information which must be submitted shall include but is not limited to all of the following:

a. The name of the precursor substance.

b. The quantity of the precursor substance sold, transferred, or furnished.

c. The date the precursor substance was sold, transferred, or furnished.

d. The name and address of the recipient.

e. The name and address of the vendor.

2. Reports authorized under subsection 1 may be computer-generated and submitted monthly in accordance with rules adopted by the board.

Sec. 17. NEW SECTION. 204B.8 MISSING QUANTITY — REPORTING.

A person who is required to report to the board pursuant to this chapter or a person listed as an exception under section 204B.6 shall report to the board either of the following occurrences within seven days of knowledge of the loss or occurrence:

1. Loss or theft of a precursor substance.

2. A difference between the amount of a precursor substance shipped and the amount of a precursor substance received. If applicable, the report shall include the name of the person who transported the precursor substance and the date of shipment.

Sec. 18. NEW SECTION. 204B.9 SALE, TRANSFER, FURNISHING, OR RECEIPT FOR UNLAWFUL PURPOSE — PENALTY.

1. A person who sells, transfers, or otherwise furnishes a precursor substance with knowledge or the intent that the recipient will use the precursor substance to unlawfully manufacture a controlled substance commits a class "C" felony.

2. A person who receives a precursor substance with intent to use the substance unlawfully to manufacture a controlled substance commits a class "C" felony.

Sec. 19. NEW SECTION. 204B.10 FALSE STATEMENT — PENALTY.

A person who knowingly makes a false statement in connection with any report or record required to be made under this chapter commits an aggravated misdemeanor.

Sec. 20. NEW SECTION. 204B.11 PERMIT REQUIREMENTS — PENALTY.

1. A vendor or a recipient who receives a precursor substance from a source outside the state shall obtain a permit for the transaction from the board. However, a permit is not required of a vendor of a drug containing ephedrine, phenylpropanolamine, or pseudoephedrine or of a cosmetic that contains a precursor substance if the drug or cosmetic is lawfully sold, transferred, or furnished either over the counter without a prescription in accordance with chapter 203B or with a prescription pursuant to chapter 155A.

2. An application for a permit shall be filed in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant, and a full description of any precursor substance sold, transferred, or otherwise furnished or received.

3. The board may grant a permit on a form adopted by rule. A permit shall be effective for not more than one year from the date of issuance.

4. An applicant shall pay, at the time of filing an application, a permit fee determined by the board.

5. A permit granted under this chapter may be annually renewed on a date to be determined by the board pursuant to rule, upon the filing of a renewal application and the payment of a permit renewal fee.

6. Permit fees charged by the board shall not exceed the costs incurred by the board in administering this chapter.

7. Selling, transferring, or otherwise furnishing, or receiving a precursor substance without a permit obtained pursuant to this section is a serious misdemeanor.

Sec. 21. NEW SECTION. 204B.12 PERMIT — REFUSAL, SUSPENSION, OR REVOCATION.

The board shall refuse, suspend, or revoke a permit upon finding that any of the following conditions exist:

1. The permit was obtained through fraud, misrepresentation, or deceit.

2. The permittee has violated or has permitted any employee of the permittee to violate any of the laws of this state relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated this chapter, a rule adopted pursuant to this chapter, or any other rule of the board.

Sec. 22. Section 232.2, subsection 6, paragraph d, Code Supplement 1989, is amended to read as follows:

d. Who has been, or is imminently likely to be, sexually abused by the child's parent, guardian, custodian or other member of the household in which the child resides.

Sec. 23. Section 232.8, subsection 1, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Violations by a child of provisions of chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be simple misdemeanors if committed by an adult, and violations by a child of county or municipal curfew or traffic ordinances, and violations by a child of section 123.47, are excluded from the jurisdiction of the juvenile court and shall be prosecuted

as simple misdemeanors as provided by law. The court may advise appropriate juvenile authorities and may refer violations of section 123.47 to the juvenile court when there is reason to believe the child regularly abuses alcohol and may be in need of treatment. The court shall notify the parents or legal guardians of a child who appears before it for a violation of section 123.47. A child convicted of a violation excluded from the jurisdiction of the juvenile court under this unnumbered paragraph shall be sentenced pursuant to section 805.8, where applicable, and pursuant to section 903.1, subsection 3, for all other violations.

Sec. 24. Section 232.8, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In a proceeding concerning a child who is alleged to have committed a second delinquent act or a second violation excluded from the jurisdiction of the juvenile court, the court or the juvenile court shall determine whether there is reason to believe that the child regularly abuses alcohol or other controlled substance and may be in need of treatment. If the court so determines, the court shall advise appropriate juvenile authorities and refer such offenders to the juvenile court for disposition pursuant to section 232.52A.

Sec. 25. Section 232.19, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 3. Notwithstanding any other provision of this chapter, a child shall not be placed in detention as a result of a violation by that child of section 123.47.

Sec. 26. **NEW SECTION. 232.52A DISPOSITION OF CERTAIN JUVENILE OFFENDERS.**

In addition to any other order of the juvenile court, a person under age eighteen, who may be in need of treatment as determined under section 232.8, may be ordered to participate in an alcohol or controlled substance education or evaluation program approved by the juvenile court. If recommended after evaluation, the court may also order the person to participate in a treatment program approved by the court. The juvenile court may also require the custodial parent or parents or other legal guardian to participate in an educational program with the person under age eighteen if the court determines that such participation is in the best interests of the person under age eighteen.

Sec. 27. Section 232.82, Code 1989, is amended to read as follows:

232.82 REMOVAL OF SEXUAL OFFENDERS AND PHYSICAL ABUSERS FROM THE RESIDENCE PURSUANT TO COURT ORDER.

1. Notwithstanding section 561.15, if it is alleged by a person authorized to file a petition under section 232.87, subsection 2, or by the court on its own motion, that a parent, guardian, custodian, or an adult member of the household in which a child resides has committed a sexual offense with or against the child, pursuant to chapter 709 or section 726.2, or a physical abuse as defined by section 232.2, subsection 38, the juvenile court may enter an ex parte order requiring the alleged sexual offender or physical abuser to vacate the child's residence upon a showing that probable cause exists to believe that the sexual offense or physical abuse has occurred and that substantial evidence exists to believe that the presence of the alleged sexual offender or physical abuser in the child's residence presents a danger to the child's life or physical, emotional, or mental health.

2. If an order is entered under subsection 1 and a petition has not yet been filed under this chapter, the petition shall be filed under section 232.87 by the county attorney, the department of human services, or a juvenile court officer within three days of the entering of the order.

3. The juvenile court may order on its own motion, or shall order upon the request of the alleged sexual offender or physical abuser, a hearing to determine whether the order to vacate the residence should be upheld, modified, or vacated. The juvenile court may in any later child in need of assistance proceeding uphold, modify, or vacate the order to vacate the residence.

Sec. 28. Section 232.116, subsection 1, Code Supplement 1989, is amended by adding a new paragraph:

NEW PARAGRAPH. 1. The court finds that both of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 after finding that the child has been physically or sexually abused as a result of the acts or omissions of a parent.

(2) The parent found to have physically or sexually abused the child has been imprisoned for such abuse against the child, the child's sibling, or any other child in the household and the court finds it is unlikely that the parent will be released within five years.

Sec. 29. NEW SECTION. 246.310A INSTITUTION READING ROOMS.

The director shall, as necessary, provide for the provision of suitable space for reading material for inmates. For purposes of this section, "suitable reading materials" does not include material depicting or describing the genitals, sex acts, masturbation, excretory functions, or sadomasochistic abuse which the average person, taking the material as a whole and applying contemporary community standards with respect to what is suitable material for inmates, would find appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value. The space shall be located so that any visitors, other than those authorized pursuant to section 246.512, shall not be able to view the space or the materials located within that space.

Sec. 30. Section 246.513, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department of corrections in cooperation with judicial district departments of correctional services shall establish in each judicial district bed space for the confinement and treatment of offenders convicted of violating chapter 321J who are sentenced to the custody of the director. The department of corrections shall develop standardized assessment criteria for the assignment of offenders to a facility established pursuant to this section. The offender shall be assigned by the director to a facility pursuant to section 321J.2, subsection 2, paragraph "b" or "c", unless initial medical treatment is necessary or there is insufficient space to accommodate the person. The offenders shall first be assigned to the Iowa medical classification facility at Oakdale for classification and after classification may be assigned to if medical treatment is necessary or if the offender fails to satisfactorily perform in a treatment program conducted in a residential facility operated by any a judicial district department of correctional services. The offender shall be assigned to an institution following classification. The facilities established shall meet all the following requirements:

Sec. 31. Section 246.703, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director may enter into a chapter 28E agreement with a county board of supervisors or county conservation board to provide inmate services for environmental maintenance including but not limited to brush and weed cutting, tree planting, and erosion control. The board of supervisors or conservation board shall reimburse the department of corrections for the allowance paid the inmates by the director. The supervision, security, and transportation of inmates used pursuant to the chapter 28E agreement shall be provided by the department of corrections.

Sec. 32. NEW SECTION. 246.902 WORK RELEASE — PERSONS SERVING MANDATORY MINIMUM SENTENCE.

An inmate serving a mandatory minimum sentence of one year or more, who is approved to participate in the work release program, shall serve the final six months of the inmate's mandatory minimum sentence performing labor in the program. Duties, if possible, shall consist of physical labor in plain view of the public. However, an inmate shall not be required to perform work which is beyond an inmate's physical ability, which constitutes a physical hardship, or which is dangerous or threatening to the inmate's life or health, medically prohibited, or unduly painful.

Sec. 33. Section 321J.2, subsection 2, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A minimum term of imprisonment in a county jail or community-based correctional facility imposed on a person convicted of a second or subsequent offense under paragraph "b" or "c" shall be served on consecutive days. However, if the sentencing court finds that service of the full minimum term on consecutive days would work an undue hardship on the person, or finds that sufficient jail space is not available and is not reasonably expected to become available within four months after sentencing to incarcerate the person serving the minimum sentence on consecutive days, the court may order the person to serve not less than forty-eight consecutive hours of the minimum term and to perform a specified number of hours of unpaid community service as deemed appropriate by the sentencing court.

Sec. 34. Section 321J.3, subsection 1, Code 1989, is amended to read as follows:

1. On a conviction for a violation of section 321J.2, the court may order the defendant to attend a course for drinking drivers under section 321J.22. If the defendant submitted to a chemical test on arrest for the violation of section 321J.2 and the test indicated an alcohol concentration of .20 or higher, or if the defendant is charged with a second or subsequent offense, the court shall order the defendant, on conviction, to undergo a substance abuse evaluation and the court may shall order the defendant to follow the recommendations proposed in the substance abuse evaluation for appropriate substance abuse treatment for the defendant. Court-ordered substance abuse treatment is subject to the periodic reporting requirements of section 125.86. If a defendant is committed by the court to a substance abuse treatment facility, the administrator of the facility shall report to the court when it is determined that the defendant has received the maximum benefit of treatment at the facility and the defendant shall be released from the facility. The time for which the defendant is committed for treatment shall be credited against the defendant's sentence. The court may prescribe the length of time for the evaluation and treatment or it may request that the area school conducting the course for drinking drivers which the person is ordered to attend or the treatment program to which the person is committed immediately report to the court when the person has received maximum benefit from the course for drinking drivers or treatment program or has recovered from the person's addiction, dependency, or tendency to chronically abuse alcohol or drugs. Upon successfully completing or attending a course for drinking drivers or an ordered substance abuse treatment program, the person may be placed on probation for six months and as a condition of probation, shall attend a program providing posttreatment services relating to substance abuse as approved by the court. A person committed under this section who does not possess sufficient income or estate to make payment of the costs of the treatment in whole or in part shall be considered a state patient and the costs of treatment shall be paid as provided in section 125.44. A defendant who fails to carry out the order of the court or who fails to successfully complete or attend a course for drinking drivers or an ordered substance abuse treatment program shall be confined in the county jail for twenty days in addition to any other imprisonment ordered by the court or may be ordered to perform unpaid community service work, and shall be placed on probation for one year with a violation of this probation punishable as contempt of court. In addition to any other condition of probation, the person shall attend a program providing substance abuse prevention services or posttreatment services related to substance abuse as ordered by the court. The person shall report to the person's probation officer as ordered concerning proof of attendance at the treatment program or posttreatment program ordered by the court. Failure to attend or complete the program shall be considered a violation of probation and is punishable as contempt of court.

Sec. 35. **NEW SECTION.** 321J.4A SURRENDER OF REGISTRATION AND PLATES.

1. Upon a plea or verdict of guilty of a third or subsequent violation of section 321J.2, the court shall issue an impoundment order requiring the surrender to the court of the registration certificate and registration plates of all of the following:

a. All vehicles registered to the defendant, or jointly to the defendant and the defendant's spouse.

b. All vehicles owned by the defendant, or jointly by the defendant and the defendant's spouse.

c. All vehicles leased to the defendant, or jointly to the defendant and the defendant's spouse. This paragraph does not apply to a rental vehicle which is one of a fleet of two or more vehicles rented for periods of four months or less.

2. For purposes of this subsection, a conviction for, deferred judgment for, or plea of guilty to, a violation of section 321J.2, which occurred more than six years prior to the date of the most recent violation charged, shall not be considered in determining that the most recent violation is a third or subsequent violation.

3. If the court issues an impoundment order, the registration certificate and registration plates shall be surrendered to the court either three days after the order is issued or on the date specified by the court, whichever is later. The court shall forward surrendered registration certificates to the county recorder within seven days after surrender. The court may destroy the surrendered registration plates. Except as provided in subsection 5, new registration plates shall not be issued to the defendant or owner until the driver's license of the violator has been reissued or reinstated. The court shall notify the director within ten days after issuing an impoundment order.

4. a. A defendant or an owner may apply to the director for new registration plates, which must bear a special series of numbers or letters so as to be readily identified by traffic law enforcement officers. Application for and acceptance of special plates constitutes implied consent for law enforcement officers to stop the vehicle bearing special plates at any time. The director shall authorize the issuance of special plates if any of the following apply:

(1) A member of the defendant's household has a valid driver's license.

(2) The defendant or owner has a temporary restricted license pursuant to section 321J.20.

The director may issue the special plates on payment of a fifty dollar fee for each vehicle for which special plates are requested.

b. Until the driver's license of the defendant is reinstated or reissued, the defendant shall inform the department that an impoundment order is in effect when requesting any new registration plates.

5. A registered owner shall not sell a motor vehicle during the time its registration plates and registration certificate have been ordered surrendered or during the time its registration plates bear a special series number, unless the registered owner applies to the department for consent to transfer title to the motor vehicle. If the department is satisfied that the proposed sale is in good faith and for valid consideration, that the registered owner will be deprived of custody and control of the motor vehicle, and that the sale is not for the purpose of circumventing the provisions of this section, the department may certify its consent to the county recorder. The county recorder shall then transfer the registration certificate to the new owner upon proper application and issue new registration plates. After the registration plates and registration certificate have been ordered surrendered to the court under this section, if the title to the motor vehicle is transferred by the cancellation of a conditional sales contract, a sale upon execution, or by decree or order of a court of competent jurisdiction, the department shall order the registration certificate surrendered to the new registered owner. The county recorder shall then transfer the registration certificate and issue new registration plates to the new registered owner.

6. This section is not intended to change or modify taxation of motor vehicles or the time within which a motor vehicle tax must be paid.

7. a. A person who fails to surrender any registration plates or a registration certificate to the court upon demand under this section or who fails to comply with this section is guilty of a simple misdemeanor and contempt of court.

b. A person who operates a motor vehicle on a street or highway at a time when a court has ordered the surrender of its registration plate and registration certificate is guilty of a

simple misdemeanor as a separate and distinct offense from any other penalty imposed in connection with driving while under a license suspension or revocation.

8. The director may adopt such rules as may be necessary or convenient for the implementation and administration of this section.

Sec. 36. Section 356.26, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The district court may also grant by order to any person sentenced to a county jail the privilege of a sentence of in-home detention where the county sheriff has certified to the court that the jail has an in-home detention program. The department of corrections shall report to the legislative fiscal bureau on a semiannual basis concerning utilization of in-home detention, including the counties which have established such programs and the number of prisoners allowed in-home detention privileges.

Sec. 37. NEW SECTION. 421A.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Controlled substance" means controlled substance as defined in section 204.101.
2. "Counterfeit substance" means a counterfeit substance as defined in section 204.101.
3. "Dealer" means any person who ships, transports, or imports into this state or acquires, purchases, possesses, manufactures, or produces in this state any of the following:
 - a. Seven or more grams of a taxable substance other than marijuana, but including a taxable substance that is a mixture of marijuana and other taxable substances.
 - b. Forty-two and one-half grams or more of a substance consisting of or containing marijuana.
 - c. Ten or more dosage units of a taxable substance which is not sold by weight.

However, a person who lawfully ships, transports, or imports into this state or acquires, purchases, possesses, manufactures, or produces a taxable substance in this state is not considered a dealer.

4. "Department" means the department of revenue and finance.
5. "Director" means the director of revenue and finance.
6. "Dosage unit" means the unit of measurement in which a substance is dispensed to the ultimate user. Dosage unit includes, but is not limited to, one pill, one capsule, or one microdot.
7. "Marijuana" means marijuana as defined in section 204.101.
8. "Simulated controlled substance" means a simulated controlled substance as defined in section 204.101.
9. "Taxable substance" means a controlled substance, a counterfeit substance, a simulated controlled substance, or marijuana, or a mixture of materials that contains a controlled substance, counterfeit substance, simulated controlled substance, or marijuana.

Sec. 38. NEW SECTION. 421A.2 ADMINISTRATION — RULES.

The director shall administer this chapter. The director shall collect all taxes, interest, and civil penalties imposed under this chapter and deposit them in the general fund of the state.

The director may adopt rules under chapter 17A that are necessary to enforce this chapter. The director shall adopt a uniform system of providing, affixing, and displaying official stamps, labels, or other official indicia for taxable substances.

Sec. 39. NEW SECTION. 421A.3 TAX PAYMENT REQUIRED FOR POSSESSION — PAYMENT DUE.

A dealer shall not possess, distribute, or offer to sell a taxable substance unless the tax imposed under this chapter has been paid as evidenced by a stamp, label, or other official indicia permanently affixed to the taxable substance.

Taxes imposed on taxable substances by this chapter are due and payable immediately upon manufacture, production, acquisition, purchase, or possession by a dealer.

If the indicia evidencing the payment of the tax imposed on taxable substances under this chapter have not been affixed, the dealer shall have the indicia permanently affixed on the taxable substance immediately after receiving the taxable substance. A stamp, label, or other official indicia shall be used only once and shall not be used after the date of expiration.

Sec. 40. NEW SECTION. 421A.4 MEASUREMENTS.

For purposes of measurements under this chapter, the weight of a taxable substance shall be measured by its weight in metric grams in the dealer's possession. If a taxable substance consists of a mixture containing both marijuana and another substance or combination of substances listed in the definition of taxable substance in section 421A.1, the taxable substance shall be taxed under section 421A.7, subsection 2.

Sec. 41. NEW SECTION. 421A.5 DEFENSE OR IMMUNITY.

This chapter does not provide in any manner a defense or affirmative defense to or immunity for a dealer from criminal prosecution pursuant to Iowa law.

Sec. 42. NEW SECTION. 421A.6 PHARMACEUTICALS.

This chapter does not require persons lawfully in possession of a taxable substance to pay the tax required under this chapter or to purchase, acquire, or affix the stamps, labels, or other official indicia otherwise required by this chapter.

Sec. 43. NEW SECTION. 421A.7 TAX IMPOSED — RATE OF TAX.

An excise tax is imposed on dealers at the following rates:

1. On each gram of marijuana, or each portion of a gram, five dollars.
2. On each gram or portion of a gram of any taxable substance sold by weight other than marijuana, two hundred fifty dollars.
3. On each ten dosage units of any taxable substance that is not sold by weight, or portion thereof, four hundred dollars.

Sec. 44. NEW SECTION. 421A.8 PRICE OF STAMPS, LABELS, OR OTHER INDICIA.

Stamps, labels, or other official indicia to be affixed to a taxable substance indicating the payment of the excise tax shall be obtained and purchased from the department. The dealer shall pay the entire excise tax listed in section 421A.7 at the time of purchase, except as provided in section 421A.13, and receive stamps, labels, or other official indicia for the amount paid. However, the minimum purchase price to be paid for any stamps, labels, or indicia shall be two hundred fifteen dollars.

Sec. 45. NEW SECTION. 421A.9 ASSESSMENTS ARE JEOPARDY ASSESSMENTS.

All assessments of taxes made pursuant to this chapter shall be considered jeopardy assessments or collections as provided in section 422.30. The director shall assess a tax, interest, and applicable penalties based on knowledge or information available to the director; mail to the taxpayer at the taxpayer's last known address or serve in person, a written notice of the amount of tax, interest, and penalty; demand its immediate payment; and, if payment is not immediately made, collect the tax, interest, and penalty by any method prescribed in section 422.30. The period for examination, determination of amount of tax owed, and assessment is unlimited.

A person shall not bring suit to enjoin the assessment or collection of any taxes, interest, or penalties imposed by this chapter.

The tax, interest, and penalties assessed by the director are presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show any incorrectness or invalidity of an assessment. The burden is upon the taxpayer to prove that the shipment, transportation, importation, acquisition, purchase, possession, manufacture, or production of a taxable substance was lawful if a taxpayer's status as a dealer is disputed. Any statement filed by the director with the clerk of the district court, or any other certificate by the director of the amount of tax, interest, and penalties determined or assessed is admissible in evidence and is prima facie evidence of the facts contained in the statement.

Sec. 46. NEW SECTION. 421A.10 CONFIDENTIAL NATURE OF INFORMATION.

Notwithstanding any law to the contrary, the director or an employee of the department shall not reveal any information obtained from a dealer; nor shall information obtained from

a dealer be used against the dealer in any criminal proceeding, unless the information is independently obtained, except in connection with a proceeding involving taxes due under this chapter from the dealer against whom the tax was assessed.

A person who violates this section is guilty of a simple misdemeanor.

This section does not prohibit the director from publishing statistics that do not disclose the identity of the dealers.

A stamp, label, or other official indicia denoting payment of the tax imposed under this chapter shall not be used against a taxpayer in a criminal proceeding, except that such information may be used against the taxpayer in connection with the administration or civil or criminal enforcement of the tax imposed under this chapter or any similar tax imposed by another state or local unit of government.

Sec. 47. NEW SECTION. 421A.11 EXAMINATION OF RECORDS BY DIRECTOR – SUBPOENAS.

For the purpose of determining whether or not the dealer should have paid taxes, determining the amount of tax that should have been paid, or collecting any taxes under this chapter, the director may examine, or cause to be examined, any books, papers, records, or memoranda that may be relevant to making such determinations, whether the books, papers, records, or memoranda are the property of or in the possession of the dealer or another person. The director may require the attendance of any person having knowledge or information that may be relevant, compel the production of books, papers, records, or memoranda by persons required to attend, take testimony on matters material to the determination, and administer oaths or affirmations. Upon demand of the director or an examiner or investigator, the court shall issue a subpoena for the attendance of a witness or the production of books, papers, records, or memoranda. The director may also issue subpoenas. Disobedience of subpoenas issued under this chapter is punishable by the district court of the county in which the subpoena is issued, or if the subpoena is issued by the director, by the district court of the county in which the party served with the subpoena is located, in the same manner as a contempt of court.

The director may petition the district court or a magistrate for an administrative search warrant as authorized by section 808.14 to execute a distress warrant authorized by section 422.26.

Sec. 48. NEW SECTION. 421A.12 CIVIL AND CRIMINAL PENALTIES FOR VIOLATION OF ACT – INTEREST.

A dealer who violates this chapter is subject to a penalty equal to the amount of the tax imposed by section 421A.7, in addition to the tax imposed by that section. The dealer shall pay interest on the tax and penalty at the rate in effect under section 421.7, counting each fraction of a month as an entire month, computed from the date of assessment through the date of payment. The penalty and interest shall be collected as part of the tax.

In addition to the civil tax penalty and interest imposed by this section, a dealer distributing, offering to sell, or possessing taxable substances without affixing the appropriate stamps, labels, or other official indicia is guilty of a class "D" felony.

A person who possesses, prints, engraves, makes, issues, sells, or circulates a counterfeit taxable substance tax stamp, label, or other official indicia, or places or causes to be placed a counterfeit taxable substance tax stamp, label, or other official indicia on a taxable substance, is guilty of a class "D" felony.

A person who uses, sells, offers for sale, or possesses for use or sale a previously used or expired taxable substance tax stamp, label, or other official indicia, or attaches or causes to be attached a previously used or expired taxable substance tax stamp, label, or other official indicia to a taxable substance, is guilty of a class "D" felony.

Notwithstanding section 802.3, an indictment may be found or information filed upon any criminal offense specified in this chapter, in the proper court, within six years after the commission of the offense.

Sec. 49. NEW SECTION. 421A.13 CREDIT FOR PREVIOUSLY PAID TAXES.

If another state or local unit of government has previously assessed an excise tax on a taxable substance, the taxpayer shall pay the difference between the tax imposed under this chapter and the tax previously paid. If the tax previously paid to the other state or local unit of government was equal to or greater than the tax imposed under this chapter, no tax is due. The burden is on the taxpayer to show that an excise tax on the taxable substances has been paid to another state or local unit of government.

Sec. 50. NEW SECTION. 421A.14 REVISION OF TAX — REFUNDS.

Sections 421.5, 422.26, 422.28, 422.29, 422.73, subsection 2, and 422.74 shall apply to this chapter, except that a refund claim filed later than thirty days from the expiration date of the stamps for which the refund is requested shall not be allowed by the director.

Sec. 51. NEW SECTION. 421A.15 AVAILABILITY OF RECORDS AND INFORMATION.

The director may request from state, county, and local agencies, information and assistance deemed necessary to administer this chapter. State, county, and local agencies, officers, and employees shall cooperate with the director in identifying dealers and shall, on request, supply the department with available information and assistance which the director deems necessary to administer this chapter, notwithstanding any provisions of law making such information confidential.

Sec. 52. Section 422.7, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. If the adjusted gross income includes income or loss from a business operated by the taxpayer, and if the business does not qualify for the adjustment under section 422.7, subsection 12, an additional deduction shall be allowed in computing the income or loss from the business if the business hired for employment in the state during its annual accounting period ending with or during the taxpayer's tax year either of the following:

a. An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

- (1) Has been convicted of a felony in this or any other state or the District of Columbia.
- (2) Is on parole pursuant to chapter 906.
- (3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.
- (4) Is in a work release program pursuant to chapter 246, division IX.

b. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 907A.1 applies.

The amount of the additional deduction is equal to sixty-five percent of the wages paid to individuals, but shall not exceed twenty thousand dollars per individual, named in paragraphs "a" and "b" who were hired for the first time by that business during the annual accounting period for work done in the state. This additional deduction is allowed for the wages paid to those individuals successfully completing a probationary period during the twelve months following the date of first employment by the business and shall be deducted at the close of the annual accounting period.

The additional deduction shall not be allowed for wages paid to an individual who was hired to replace an individual whose employment was terminated within the twelve-month period preceding the date of first employment. However, if the individual being replaced left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct in connection with the individual's employment as determined by the division of job service of the department of employment services, the additional deduction shall be allowed.

A taxpayer who is a partner of a partnership or a shareholder of a subchapter S corporation, may deduct that portion of wages qualified under this subsection paid by the partnership or subchapter S corporation based on the taxpayer's pro rata share of the profits or losses from the partnership or subchapter S corporation.

The department shall develop and distribute information concerning the deduction available for businesses employing persons named in paragraphs "a" and "b".

Sec. 53. Section 422.35, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. If the taxpayer is a business corporation and does not qualify for the adjustment under section 422.35, subsection 6, subtract an amount equal to sixty-five percent of the wages paid to individuals, but shall not exceed twenty thousand dollars per individual, named in paragraphs "a" and "b" who were hired for the first time by the taxpayer during the tax year for work done in this state:

a. An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

- (1) Has been convicted of a felony in this or any other state or the District of Columbia.
- (2) Is on parole pursuant to chapter 906.
- (3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.
- (4) Is in a work release program pursuant to chapter 246, division IX.

b. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 907A.1 applies.

This deduction is allowed for the wages paid to the individuals successfully completing a probationary period named in paragraphs "a" and "b" during the twelve months following the date of first employment by the taxpayer and shall be deducted in the tax years when paid.

The department shall develop and distribute information concerning the deduction available for businesses employing persons named in paragraphs "a" and "b".

Sec. 54. Section 602.6405, subsection 1, Code 1989, is amended to read as follows:

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, county and municipal infractions, and small claims. ~~They also~~ Magistrates have jurisdiction to exercise the powers specified in sections 644.2 and 644.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail. ~~They also~~ Magistrates have jurisdiction over violations of section 123.47 involving persons eighteen years of age, and section 123.49, subsection 2, paragraph "h". Magistrates have jurisdiction to conduct hearings authorized under section 809.4 and section 809.10, subsection 2.

Sec. 55. Section 707.6A, Code Supplement 1989, is amended to read as follows:

707.6A HOMICIDE OR SERIOUS INJURY BY VEHICLE.

1. A person commits a class "~~D~~" "C" felony when the person unintentionally causes the death of another by either of the following means:

a. Operating a motor vehicle while under the influence of alcohol or a other drug or a combination of such substances or while having an alcohol concentration, as defined in section 321J.1, subsection 1, of .10 or more, in violation of section 321J-2. Upon a plea or verdict of guilty of a violation of this paragraph, the court shall order the state department of transportation to revoke the defendant's motor vehicle license or nonresident operating privileges for a period of six years. The defendant shall surrender to the court any Iowa license or permit and the court shall forward it to the department with a copy of the revocation order.

b. Driving a motor vehicle in a reckless manner with willful or wanton disregard for the safety of persons or property, in violation of section 321.277.

2. A person commits ~~an aggravated misdemeanor~~ a class "D" felony when the person unintentionally causes the death of another by operating a motor vehicle in any of the following manners:

a. Drag racing, in violation of section 321.278.

b. Eluding or attempting to elude a pursuing law enforcement vehicle, in violation of section 321.279.

3. A person commits an aggravated misdemeanor when the person unintentionally causes a serious injury, as defined in section 321J.1, subsection 8, by either of the means described in subsection 1 of this section.

3 4. As used in this section, "motor vehicle" includes any vehicle defined as a motor vehicle in section 321.1.

5. Except for the purpose of sentencing under section 321J.2, subsection 2, a conviction or deferral of judgment for a violation of this section, where a violation of section 321J.2 is admitted or proved, shall be treated as a conviction or deferral of judgment for a violation of section 321J.2 for the purposes of chapters 321, 321A, and 321J, and section 907.3, subsection 1.

Sec. 56. Section 709.10, Code 1989, is amended to read as follows:

709.10 COST OF MEDICAL EXAMINATION IN CRIMES OF SEXUAL ABUSE.

The cost of a medical examination for the purpose of gathering evidence and the cost of treatment for the purpose of preventing venereal disease shall be borne by the Iowa department of public health justice.

Sec. 57. NEW SECTION. 723A.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Criminal acts" means any of the following or any combination of the following:
 - a. An offense constituting a violation of section 204.401 involving a controlled substance, a counterfeit substance, or a simulated controlled substance.
 - b. An offense constituting a violation of chapter 711 involving a robbery or extortion.
 - c. An offense constituting a violation of section 708.6 involving an act of terrorism.
 - d. An offense constituting a violation of section 708.8.
 - e. An offense constituting a violation of section 720.4.
 - f. Any other offense constituting a forcible felony as defined in section 702.11.
2. "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more criminal acts, which has an identifiable name or identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.
3. "Pattern of criminal gang activity" means the commission, attempt to commit, conspiring to commit, or solicitation of two or more criminal acts, provided the criminal acts were committed on separate dates or by two or more persons who are members of, or belong to, the same criminal street gang.

Sec. 58. NEW SECTION. 723A.2 CRIMINAL GANG PARTICIPATION.

A person who actively participates in or is a member of a criminal street gang and who willfully aids and abets any criminal act committed for the benefit of, at the direction of, or in association with any criminal street gang, commits a class "D" felony.

Sec. 59. Section 809.10, subsection 3, Code 1989, is amended to read as follows:

3. Upon a finding by the court that the property is forfeitable, the court ~~shall~~ may as a matter of equity enter an order transferring title to the property to the state.

Sec. 60. NEW SECTION. 809.17 PROCEEDS APPLIED TO VARIOUS PROGRAMS.

Except as provided in section 809.21, proceeds from the disposal of seized or forfeited property pursuant to this chapter may be transferred in whole or in part to the victim reparation fund created in pursuant to* chapter 912 at the discretion of the recipient agency, political subdivision, or department.

Sec. 61. Section 811.1, Code Supplement 1989, 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 the following defendants shall not be admitted to bail:

*According to enrolled Act

1. A defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of a class "A" felony, murder, felonious assault, sexual abuse in the second degree, sexual abuse in the third degree, kidnapping, robbery in the first degree, arson in the first degree, or burglary in the first degree, or any felony included in section 204.401, subsection 1, paragraph "a".

2. A defendant appealing a conviction of a class "A" felony, murder, felonious assault, sexual abuse in the second degree, sexual abuse in the third degree, kidnapping, robbery in the first degree, arson in the first degree, or burglary in the first degree, or any felony included in section 204.401, subsection 1, paragraph "a".

3. Notwithstanding subsections 1 and 2, a defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of, or appealing a conviction of, a felony offense under chapter 204 not provided for in subsection 1 or 2, is presumed to be ineligible to be admitted to bail unless the court determines that such release reasonably will not result in the person failing to appear as required and will not jeopardize the personal safety of another person or persons.

Sec. 62. Section 901.2, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a public offense may be rendered, the court shall receive from the state, from the judicial district department of correctional services, and from the defendant any information which may be offered which is relevant to the question of sentencing. The court may consider information from other sources. Notwithstanding section 13.10, the court may determine if the defendant shall be required to provide a physical specimen to be submitted for DNA profiling if the defendant is to be placed on probation or work release. The court shall consider the deterrent effect of DNA profiling, the likelihood of repeated violations by the defendant, and the seriousness of the offense. When funds have been allocated from the general fund of the state, or funds are provided by other public or private sources, the court shall order DNA profiling. The court shall order a presentence investigation when the offense is a class "B," class "C," or class "D" felony. A presentence investigation for a class "B," class "C," or class "D" felony shall not be waived. The court may order, with the consent of the defendant, that the presentence investigation begin prior to the acceptance of a plea of guilty, or prior to a verdict of guilty. The court may order a presentence investigation when the offense is an aggravated or serious misdemeanor. Notwithstanding section 901.3, a presentence investigation ordered by the court for a serious misdemeanor shall include information concerning only the following:

1. A brief personal and social history of the defendant.
2. The defendant's criminal record.
3. The harm to the victim, the victim's immediate family, and the community, including any completed victim impact statement or statements and restitution plan.

Sec. 63. Section 901.3, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 7. The defendant's potential as a candidate for assignment to a treatment facility pursuant to section 246.513 based upon the standardized assessment criteria developed by the department of corrections. The presentence investigation report shall contain the assessment criteria commencing January 1, 1991.

Sec. 64. NEW SECTION. 901.4A SUBSTANCE ABUSE EVALUATION.

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, the court may order the defendant to submit to and complete a substance abuse evaluation, if the court determines that there is reason to believe that the defendant regularly abuses alcohol or other controlled substances and may be in need of treatment. An order made pursuant to this section may be made in addition to any other sentence or order of the court.

Sec. 65. Section 901.5, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 8. The court may order the defendant to complete any treatment indicated by a substance abuse evaluation ordered pursuant to section 901.4A or any other section.

Sec. 66. Section 903.1, subsection 3, unnumbered paragraph 1, Code 1989, is amended to read as follows:

3. A person under eighteen years of age convicted of a simple misdemeanor under chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, ~~section 123.47~~, or a violation of a county or municipal curfew or traffic ordinance, except for an offense subject to section 805.8, may be required to pay a fine, not to exceed one hundred dollars, as fixed by the court, or may be required to perform community service as ordered by the court.

Sec. 67. Section 903A.2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Each inmate of an institution under the Iowa department of corrections, is eligible for a reduction of sentence of one day for each day of good conduct of the inmate while committed to one of the department's institutions. In addition to the sentence reduction of one day for each day of good conduct, each inmate is eligible for an additional reduction of sentence of up to five days a month if the inmate participates satisfactorily in employment in the institution, in Iowa state industries, in an inmate employment program established by the director, in a treatment program established by the director, or in an inmate educational program approved by the director. Reduction of sentence pursuant to this section may be subject to forfeiture pursuant to section 903A.3. Computation of good conduct time is subject to the following conditions:

Sec. 68. Section 906.4, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board may establish as a condition of a person's parole or work release that the person perform a specified number of hours of unpaid community service. The board shall not make community service a uniform or mandatory requirement for all or substantially all parolees or work release inmates but shall exercise discretion in ordering community service as a condition of parole or work release. The board shall report to the general assembly on the implementation of community service as a condition of parole or work release. The report shall be submitted on or before January 1, 1991.

Sec. 69. Section 906.5, Code Supplement 1989, is amended to read as follows:

906.5 RECORD REVIEWED — RULES.

1. Within Except as provided in subsection 2, within one year after the commitment of a person other than a class "A" felon, class "B" felon convicted of murder in the second degree and serving a sentence of more than twenty-five years, or a felon serving a mandatory minimum sentence, other than a class "A" felon, to the custody of the director of the Iowa department of corrections, a member of the board shall interview the person. Thereafter, at regular intervals, not to exceed one year, the board shall interview the person and consider the person's prospects for parole or work release. However, if the registration of a victim prohibits conducting a timely interview as provided in this subsection, the interview may be conducted within a reasonable period of time after the one-year period or interval has expired in order to provide the victim notice as provided in section 910A.10, subsection 1, paragraph "a".

Not less than twenty days prior to conducting a hearing at which the board will interview the person, the board shall notify the department of corrections of the scheduling of the interview, and the department shall make the person available to the board at the person's institutional residence as scheduled in the notice. However, if health, safety, or security conditions require moving the person to another institution or facility prior to the scheduled interview, the department of corrections shall so notify the board.

2. Within six months after the commitment of a person convicted of an offense under chapter 714, 715A, 716, or 716A, a member of the board shall interview the person as provided

in subsection 1. The board shall develop a plan for the purpose of early release of such persons when it is determined that a person convicted of such an offense can be released without detriment to the community or to the person.

It is the intent of the general assembly that the board shall implement this plan of early release in an effort to assist in controlling the prison population and assuring prison space for the confinement of offenders whose release would be detrimental to the citizens of this state. The board shall report to the legislative fiscal bureau on a monthly basis concerning the implementation of this plan and the number of inmates paroled pursuant to this plan and the average length of stay of those paroled.

2 3. At the time of an interview required under this section, the board shall consider all pertinent information regarding the person, including the circumstances of the person's offense, any presentence report which is available, the previous social history and criminal record of the person, the person's conduct, work, and attitude in prison, and the reports of physical and mental examinations that have been made.

3 4. A person while on parole or work release is under the supervision of the district department of correctional services of the district designated by the board of parole. The department of corrections shall prescribe rules for governing persons on parole or work release. The board may adopt other rules not inconsistent with the rules of the department of corrections as the board deems proper or necessary for the performance of its functions.

Sec. 70. Section 906.9, Code 1989, is amended to read as follows:

906.9 CLOTHING, TRANSPORTATION, AND MONEY.

When an inmate is discharged, paroled, or placed on work release, or placed in a community-based correctional program under section 246.513, the warden or superintendent shall furnish the inmate, at state expense, appropriate clothing and transportation to the place in this state indicated in the inmate's discharge, parole, or work release plan, or community-based corrections assignment. When an inmate is discharged, paroled, or placed on work release, or placed in a community-based correctional program under section 246.513, the warden or superintendent shall provide the inmate, at state expense, money in accordance with the following schedule:

1. Upon discharge or parole, one hundred dollars.
2. Upon being placed on work release, fifty dollars.
3. Upon going from an educational work release to parole or discharge, fifty dollars.
4. Upon being placed in a community-based correctional program under section 246.513, fifty dollars.

Those inmates receiving payment under subsection 2, or 3, or 4 shall not be eligible for payment under subsection 1 unless they are returned to the institution. The warden or superintendent shall maintain an account of all funds expended pursuant to this section.

Sec. 71. Section 906.15, Code 1989, is amended to read as follows:

906.15 DISCHARGE FROM PAROLE.

Unless sooner discharged, a person released on parole shall be discharged when the person's term of parole equals the period of imprisonment specified in the person's sentence, less all time served in confinement. Discharge from parole may be granted prior to such time, when an early discharge is appropriate. The board shall periodically review all paroles, and when it shall determine the board determines that any person on parole is able and willing to fulfill the obligations of a law-abiding citizen without further supervision, # the board shall discharge the person from parole. A parole officer shall periodically review all paroles assigned to the parole officer, and when the parole officer determines that any person assigned to the officer is able and willing to fulfill the obligations of a law-abiding citizen without further supervision, the officer may discharge the person from parole after notification and approval of the district director and notification of the board of parole. In either any event, discharge from parole shall terminate the person's sentence. However, a person convicted of a violation of section 709.3, 709.4 or 709.8 committed on or with a child shall not be discharged from parole

until the person's term of parole equals the period of imprisonment specified in the person's sentence, less all time served in confinement.

A parole officer or the district director who acts in compliance with this section is acting in the course of the person's official duty and is not personally liable, either civilly or criminally, for the acts of a person discharged from parole by the officer after such discharge, unless the discharge constitutes willful disregard of the person's duty.

Sec. 72. Section 907.9, Code 1989, is amended to read as follows:

907.9 DISCHARGE FROM PROBATION.

At any time that the court determines that the purposes of probation have been fulfilled, the court may order the discharge of a person from probation. At any time that a probation officer determines that the purposes of probation have been fulfilled, the officer may order the discharge of a person from probation after approval of the district director, and notification of the sentencing court and county attorney who prosecuted the case. The sentencing judge, unless the judge is no longer serving or is otherwise unable to, may order a hearing on its own motion, or shall order a hearing upon the request of the county attorney, for review of such discharge. If the sentencing judge is no longer serving or unable to order such hearing, the chief judge of the district or the chief judge's designee shall order any hearing pursuant to this section. Following the hearing, the court shall approve or rescind such discharge. If a hearing is not ordered within thirty days after notification by the probation officer, the person shall be discharged and the probation officer shall notify the state court administrator of such discharge. At the expiration of the period of probation, in cases where the court fixes the term of probation, the court shall order the discharge of the person from probation, and the court shall forward to the governor a recommendation for or against restoration of citizenship rights to that person. A person who has been discharged from probation shall no longer be held to answer for the person's offense. Upon discharge from probation, if judgment has been deferred under section 907.3, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the state court administrator as required by section 907.4 shall not be expunged. The court's record shall not be expunged in any other circumstances.

A probation officer who acts in compliance with this section is acting in the course of the person's official duty and is not personally liable, either civilly or criminally, for the acts of a person discharged from probation by the officer after such discharge, unless the discharge constitutes willful disregard of the person's duty.

Sec. 73. Section 910.1, subsection 1, Code 1989, is amended to read as follows:

1. "Victim" means ~~any~~ a person who has suffered pecuniary damages as a result of the offender's criminal activities. However, for purposes of this chapter, an insurer is not a victim and does not have a right of subrogation. The crime victim reparation program is not an insurer for purposes of this chapter, and the right of subrogation provided by section 912.12 does not prohibit restitution to the crime victim reparation program.

Sec. 74. Section 910.1, subsection 4, Code 1989, is amended to read as follows:

4. "Restitution" means payment of pecuniary damages to a victim in an amount and in the manner provided by the offender's plan of restitution. Restitution shall also include includes the payment of crime victim assistance reimbursements, court costs, court-appointed attorney's fees or the expense of a public defender, and the performance of a public service by an offender in an amount set by the court when the offender cannot reasonably pay all or part of the court costs, court-appointed attorney's fees or the expense of a public defender.

Sec. 75. Section 910.2, Code 1989, is amended to read as follows:

910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY SENTENCING COURT.

In all criminal cases except simple misdemeanors under chapter 321, in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered,

the sentencing court shall order that restitution be made by each offender to the victims of the offender's criminal activities and, if the court so orders and to the extent that the offender is reasonably able to do so, for crime victim assistance reimbursement, court costs, court-appointed attorney's fees or the expense of a public defender when applicable. However, victims shall be paid in full before restitution is paid for crime victim assistance reimbursement, court costs, court-appointed attorney's fees or for the expense of a public defender. In structuring a plan of restitution, the court shall provide for payments in the following order of priority: victim, crime victim assistance reimbursement, court costs, and court-appointed attorney's fees or the expense of a public defender. When the offender is not reasonably able to pay all or a part of the crime victim assistance reimbursement, court costs, court-appointed attorney's fees or the expense of a public defender, the court may require the offender in lieu of that portion of the crime victim assistance reimbursement, court costs, court-appointed attorney's fees, or expense of a public defender for which the offender is not reasonably able to pay, to perform a needed public service for a governmental agency or for a private, nonprofit agency which provides a service to the youth, elderly or poor of the community. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

Sec. 76. Section 910A.7A, Code Supplement 1989, is amended to read as follows:

910A.7A NOTIFICATION BY CLERK OF THE SUPREME COURT DEPARTMENT OF JUSTICE.

The clerk of the supreme court department of justice shall notify a registered victim of all dispositional orders of a case currently on appeal in which the victim was involved.

Sec. 77. Section 912.1, subsection 3, Code Supplement 1989, is amended to read as follows:

3. "Crime" means conduct that occurs or is attempted in this state, poses a substantial threat of personal injury or death, and is punishable as a felony, ~~an aggravated misdemeanor~~, or a ~~serious~~ misdemeanor, or would be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this state. "Crime" does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, motorcycle, motorized bicycle, train, boat, or aircraft except for violations of section 321J.2 or when the intention is to cause personal injury or death. A plea or verdict of guilty of a charge under section 321J.2 or a license revocation under section 321J.9 or 321J.12 shall be considered by the department as evidence of a violation of section 321J.2 for the purposes of this chapter.

Sec. 78. Section 912.3, subsection 4, Code Supplement 1989, is amended to read as follows:

4. Request from the department of human services, the divisions of job service and industrial services of the department of employment services, the attorney general department of public safety, the county sheriff departments, the municipal police departments, the county attorneys, or other public authorities or agencies reasonable assistance or data necessary to administer the crime victim reparation program.

Sec. 79. Section 912.3, subsection 7, Code Supplement 1989, is amended by striking the subsection.

Sec. 80. Section 912.5, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. To a victim of an act committed outside this state who is a resident of this state, if the act would be compensable had it occurred within this state and the act occurred in a state that does not have an eligible crime victim compensation program, as defined in the federal Victims of Crime Act of 1984, Pub. L. 98-473, section 1403(b), as amended and codified in 42 U.S.C. § 10602(b).

Sec. 81. Section 912.6, subsection 1, Code Supplement 1989, is amended to read as follows:

1. Reasonable charges incurred for medical care not to exceed ten thousand five hundred dollars. Reasonable charges incurred for mental health care not to exceed one thousand five hundred dollars which includes services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work or counseling and guidance, or a victim counselor as defined in section 236A.1.

Sec. 82. Section 912.6, subsections 2 and 3, Code Supplement 1989, are amended by striking the subsections.

Sec. 83.

The department of public safety shall study the feasibility and usefulness of implementing a pilot program for determining the extent of drug and alcohol use and abuse among persons arrested for felony offenses, of determining whether there is any correlation between drug and alcohol abuse and crime in this state, for developing data comparing rural and urban areas in this state, and for developing a comparison with similar data collected in other states. The study shall be under the direction of the drug enforcement and abuse prevention coordinator who shall consult with the department of public safety to accomplish the purposes described in this section.

Sec. 84. ALTERNATIVE DRUG TESTING FOR OFFICERS.

The department of public safety shall develop a plan for the implementation of alternative drug testing programs for law enforcement, parole, and probation officers. The plan shall be submitted to the general assembly by January 15, 1991, in a form which could be adopted and implemented by the department of public safety or individual law enforcement agencies throughout the state.

Sec. 85.

Chapter 421A, as enacted in this Act, takes effect September 1, 1990.

Sec. 86. Section 35 takes effect July 1, 1991.

Approved May 6, 1990

CHAPTER 1252

ENERGY EFFICIENCY

S.F. 2403

AN ACT relating to energy efficiency.

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

Section 1. Section 8.23, Code 1989, is amended to read as follows:

8.23 ANNUAL DEPARTMENTAL ESTIMATES.

On or before September 1, next prior to each legislative session, all departments and establishments of the government shall transmit to the director, on blanks to be furnished by the director, estimates of their expenditure requirements, including every proposed expenditure, for the ensuing fiscal year, classified so as to distinguish between expenditures estimated for administration, operation, and maintenance, and the cost of each project involving the purchase of land or the making of a public improvement or capital outlay of a permanent character, together with supporting data and explanations as called for by the director. The budget estimates shall include for those agencies which pay for energy directly a line item for energy expenses itemized by type of energy and location. The estimates of expenditure requirements