

Sec. 4. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2004.

Approved April 20, 2004

CHAPTER 1097

PUBLIC HEALTH EMERGENCIES OR DISASTERS — FINANCIAL ASSISTANCE

S.F. 2153

AN ACT relating to the funding of efforts to alleviate a public health emergency or disaster.

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

Section 1. Section 135.144, Code Supplement 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 11. If a public health disaster or other public health emergency situation exists which poses an imminent threat to the public health, safety, and welfare, the department, in conjunction with the governor, may provide financial assistance, from funds appropriated to the department that are not otherwise encumbered, to political subdivisions as needed to alleviate the disaster or the emergency. If the department does not have sufficient encumbered¹ funds, the governor may request that the executive council, pursuant to the authority of section 7D.29, commit sufficient funds, up to one million dollars, that are not otherwise encumbered from the general fund, as needed and available, for the disaster or the emergency. If additional financial assistance is required in excess of one million dollars, approval by the legislative council is also required.

Approved April 26, 2004

CHAPTER 1098

OPERATING WHILE INTOXICATED — WITHDRAWAL OF BODILY SPECIMENS

H.F. 265

AN ACT relating to the withdrawal of blood without a warrant from a person under arrest for an operating-while-intoxicated offense when the arrest results from a traffic accident resulting in death or personal injury reasonably likely to cause death.

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

Section 1. **NEW SECTION.** 321J.10A BLOOD WITHDRAWAL WITHOUT A WARRANT.
1. Notwithstanding section 321J.10, if a person is under arrest for an offense arising out of

¹ The word "unencumbered" probably intended

acts alleged to have been committed while the person was operating a motor vehicle in violation of section 321J.2 or 321J.2A, and that arrest results from an accident that causes a death or personal injury reasonably likely to cause death, a chemical test of blood may be administered without the consent of the person arrested to determine the amount of alcohol or a controlled substance in that person's blood if all of the following circumstances exist:

a. The peace officer reasonably believes the blood drawn will produce evidence of intoxication.

b. The method used to take the blood sample is reasonable and performed in a reasonable manner by medical personnel under section 321J.11.

c. The peace officer reasonably believes the officer is confronted with an emergency situation in which the delay necessary to obtain a warrant under section 321J.10 threatens the destruction of the evidence.

2. If the person from whom a specimen of blood is to be withdrawn objects to the withdrawal, a breath or urine sample may be taken under the following circumstances:

a. If the person is capable of giving a specimen of breath, and a direct breath testing instrument is readily available, the withdrawal of a specimen of the person's breath may be taken for chemical testing, unless the peace officer has reasonable grounds to believe that the person was under the influence of a controlled substance, a drug other than alcohol, or a combination of alcohol and another drug.

b. If the peace officer has reasonable grounds to believe that the person was under the influence of a controlled substance, a drug other than alcohol, or a combination of alcohol and another drug, a urine sample shall be collected in lieu of a blood sample, if the person is capable of giving a urine sample and the sample can be collected.

Approved April 26, 2004

CHAPTER 1099
INVASION OF PRIVACY
H.F. 561

AN ACT creating the crime of invasion of privacy, and providing a penalty.

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

Section 1. NEW SECTION. 709.19A INVASION OF PRIVACY — NUDITY.

1. A person who knowingly views, photographs, or films another person, for the purpose of arousing or gratifying the sexual desire of any person, commits invasion of privacy if all of the following apply:

a. The other person does not have knowledge about and does not consent or is unable to consent to being viewed, photographed, or filmed.

b. The other person is in a state of full or partial nudity.

c. The other person has a reasonable expectation of privacy while in a state of full or partial nudity.

2. As used in this section:

a. "Full or partial nudity" means the showing of any part of the human genitals or pubic area or buttocks, or any part of the nipple of the breast of a female, with less than fully opaque covering.