

CHAPTER 158**CRIMINAL JUSTICE — DNA SAMPLING,
SEX OFFENDERS AND OFFENSES, AND VICTIM RIGHTS***H.F. 619*

AN ACT relating to criminal sentencing, victim notification, and the sex offender registry, by establishing a special sentence for certain offenders, requiring DNA testing of certain offenders and lengthening the time an information or indictment may be found in certain offenses where DNA evidence is available, requiring sex offender treatment in order to accumulate earned time, restricting certain persons from residing with sex offenders, establishing a sex offender treatment and supervision task force, providing penalties, and providing effective dates.

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

**DIVISION I
DNA PROFILING****Section 1. NEW SECTION. 81.1 DEFINITIONS.**

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

1. “DNA” means deoxyribonucleic acid.
2. “DNA data bank” means the repository for DNA samples obtained pursuant to section 81.4.
3. “DNA database” means the collection of DNA profiles and DNA records.
4. “DNA profile” means the objective form of the results of DNA analysis performed on a DNA sample. The results of all DNA identification analysis on an individual’s DNA sample are also collectively referred to as the DNA profile of an individual.
5. “DNA profiling” means the procedure established by the division of criminal investigation, department of public safety, for determining a person’s genetic identity.
6. “DNA record” means the DNA sample and DNA profile, and other records in the DNA database and DNA data bank used to identify a person.
7. “DNA sample” means a biological sample provided by any person required to submit a DNA sample or a DNA sample submitted for any other purpose under section 81.4.
8. “Person required to submit a DNA sample” means a person convicted, adjudicated delinquent, receiving a deferred judgment, or found not guilty by reason of insanity of an offense requiring DNA profiling pursuant to section 81.2. “Person required to submit a DNA sample” also means a person determined to be a sexually violent predator pursuant to section 229A.7.

Sec. 2. NEW SECTION. 81.2 PERSONS REQUIRED TO SUBMIT A DNA SAMPLE.

1. A person who receives a deferred judgment for a felony or against whom a judgment or conviction for a felony has been entered shall be required to submit a DNA sample for DNA profiling pursuant to section 81.4.
2. A person determined to be a sexually violent predator pursuant to chapter 229A shall be required to submit a DNA sample for DNA profiling pursuant to section 81.4 prior to discharge or placement in a transitional release program.
3. A person found not guilty by reason of insanity of an offense that requires DNA profiling shall be required to submit a DNA sample for DNA profiling pursuant to section 81.4 as part of the person’s treatment management program.
4. A juvenile adjudicated delinquent of an offense that requires DNA profiling of an adult offender shall be required to submit a DNA sample for DNA profiling pursuant to section 81.4 as part of the disposition of the juvenile’s case.
5. An offender placed on probation shall immediately report to the judicial district department of correctional services after sentencing so it can be determined if the offender has been

convicted of an offense requiring DNA profiling. If it is determined by the judicial district that DNA profiling is required, the offender shall immediately submit a DNA sample.

6. A person required to register as a sex offender.¹

Sec. 3. NEW SECTION. 81.3 ESTABLISHMENT OF DNA DATABASE AND DNA DATA BANK.

1. A state DNA database and a state DNA data bank are established under the control of the division of criminal investigation, department of public safety. The division of criminal investigation shall conduct DNA profiling of a DNA sample submitted in accordance with this section.

2. A DNA sample shall be submitted, and the division of criminal investigation shall store and maintain DNA records in the DNA database and DNA data bank for persons required to submit a DNA sample.

3. A DNA sample may be submitted, and the division of criminal investigation shall store and maintain DNA records in the DNA database and DNA data bank for any of the following:

- Crime scene evidence and forensic casework.
- A relative of a missing person.
- An anonymous DNA profile used for forensic validation, forensic protocol development, or quality control purposes, or for the establishment of a population statistics database.

4. A fingerprint record of a person required to submit a DNA sample shall also be submitted to the division of criminal investigation with the DNA sample to verify the identity of the person required to submit a DNA sample.

Sec. 4. NEW SECTION. 81.4 COLLECTING, SUBMITTING, ANALYZING, IDENTIFYING, AND STORING DNA SAMPLES AND DNA RECORDS.

1. The division of criminal investigation shall adopt rules for the collection, submission, analysis, identification, storage, and disposition of DNA records.

2. A supervising agency having control, custody, or jurisdiction over a person shall collect a DNA sample from a person required to submit a DNA sample. The supervising agency shall collect a DNA sample, upon admittance to the pertinent institution or facility, of the person required to submit a DNA sample or at a determined date and time set by the supervising agency. If a person required to submit a DNA sample is confined at the time a DNA sample is required, the person shall submit a DNA sample as soon as practicable. If a person required to submit a DNA sample is not confined after the person is required to submit a DNA sample, the supervising agency shall determine the date and time to collect the DNA sample.

3. A person required to submit a DNA sample who refuses to submit a DNA sample may be subject to contempt proceedings pursuant to chapter 665 until the DNA sample is submitted.

4. The division of criminal investigation shall conduct DNA profiling on a DNA sample or may contract with a private entity to conduct the DNA profiling.

Sec. 5. NEW SECTION. 81.5 CIVIL AND CRIMINAL LIABILITY — LIMITATION.

A person who collects a DNA sample shall not be civilly or criminally liable for the collection of the DNA sample if the person performs the person's duties in good faith and in a reasonable manner according to generally accepted medical practices or in accordance with the procedures set out in the administrative rules of the department of public safety adopted pursuant to section 81.4.

Sec. 6. NEW SECTION. 81.6 CRIMINAL OFFENSE.

1. A person who knowingly or intentionally does any of the following commits an aggravated misdemeanor:

- Discloses any part of a DNA record to a person or agency that is not authorized by the division of criminal investigation to have access to the DNA record.
- Uses or obtains a DNA record for a purpose other than what is authorized under this chapter.

¹ According to enrolled Act

2. A person who knowingly or intentionally alters or attempts to alter a DNA sample, falsifies the source of a DNA sample, or materially alters a collection container used to collect the DNA sample, commits a class "D" felony.

Sec. 7. NEW SECTION. 81.7 CONVICTION OR ARREST NOT INVALIDATED.

The detention, arrest, or conviction of a person based upon a DNA database match is not invalidated if it is determined that the DNA sample or DNA profile was obtained or placed into the DNA database by mistake or error.

Sec. 8. NEW SECTION. 81.8 CONFIDENTIAL RECORDS.

1. A DNA record shall be considered a confidential record and disclosure of a DNA record is only authorized pursuant to this section.

2. Confidential DNA records under this section may be released to the following agencies for law enforcement identification purposes:

a. Any criminal or juvenile justice agency as defined in section 692.1.

b. Any criminal or juvenile justice agency in another jurisdiction that meets the definition of a criminal or juvenile justice agency as defined in section 692.1.

3. The division of criminal investigation shall share the DNA record information with the appropriate federal agencies for use in a national DNA database.

4. A DNA record or other forensic information developed pursuant to this chapter may be released for use in a criminal or juvenile delinquency proceeding in which the state is a party and where the DNA record or forensic information is relevant and material to the subject of the proceeding. Such a record or information may become part of a public transcript or other public recording of such a proceeding.

5. A DNA record or other forensic information may be released pursuant to a court order for criminal defense purposes to a defendant, who shall have access to DNA samples and DNA profiles related to the case in which the defendant is charged.

Sec. 9. NEW SECTION. 81.9 EXPUNGEMENT OF DNA RECORDS.

1. A person whose DNA record has been included in the DNA database or DNA data bank established pursuant to section 81.3 may request, in writing to the division of criminal investigation, expungement of the DNA record from the DNA database and DNA data bank based upon the person's conviction, adjudication, or civil commitment which caused the submission of the DNA sample being reversed on appeal and the case dismissed. The written request shall contain a certified copy of the final court order reversing the conviction, adjudication, or civil commitment, and a certified copy of the dismissal, and any other information necessary to ascertain the validity of the request.

2. The division of criminal investigation, upon receipt of a written request that validates reversal on appeal of a person's conviction, adjudication, or commitment, and subsequent dismissal of the case, or upon receipt of a written request by a person who voluntarily submitted a DNA sample pursuant to section 81.3, subsection 3, paragraph "b", shall expunge all of the DNA records and identifiable information of the person in the DNA database and DNA data bank. However, if the division of criminal investigation determines that the person is otherwise obligated to submit a DNA sample, the DNA records shall not be expunged. If the division of criminal investigation denies an expungement request, the division shall notify the person requesting the expungement of the decision not to expunge the DNA record and the reason supporting its decision. The division of criminal investigation decision is subject to judicial review pursuant to chapter 17A. The department of public safety shall adopt rules governing the expungement procedure and a review process.

3. The division of criminal investigation is not required to expunge or destroy a DNA record pursuant to this section, if expungement or destruction of the DNA record would destroy evidence related to another person.

Sec. 10. NEW SECTION. 81.10 DNA PROFILING AFTER CONVICTION.

1. A defendant who has been convicted of a felony and who has not been required to submit

a DNA sample for DNA profiling may make a motion to the court for an order to require that DNA analysis be performed on evidence collected in the case for which the person stands convicted.

2. The motion shall state the following:
 - a. The specific crimes for which the defendant stands convicted in this case.
 - b. The facts of the underlying case, as proven at trial or admitted to during a guilty plea proceeding.
 - c. Whether any of the charges include sexual abuse or involve sexual assault, and if so, whether a sexual assault examination was conducted and evidence preserved, if known.
 - d. Whether identity was at issue or contested by the defendant.
 - e. Whether the defendant offered an alibi, and if so, testimony corroborating the alibi and, from whom.
 - f. Whether eyewitness testimony was offered, and if so from whom.
 - g. Whether any issues of police or prosecutor misconduct have been raised in the past or are being raised by the motion.
 - h. The type of inculpatory evidence admitted into evidence at trial or admitted to during a guilty plea proceeding.
 - i. Whether blood testing or other biological evidence testing was conducted previously in connection with the case and, if so, by whom and to² the result, if known.
 - j. What biological evidence exists and, if known, the agency or laboratory storing the evidence that the defendant seeks to have tested.
 - k. Why the requested analysis of DNA evidence is material to the issue in the case and not merely cumulative or impeaching.
 1. Why the DNA evidence would have changed the outcome of the trial or invalidated a guilty plea if DNA profiling had been conducted prior to the conviction.
3. A motion filed under this section shall be filed in the county where the defendant was convicted, and notice of the motion shall be served by certified mail upon the county attorney and, if known, upon the state, local agency, or laboratory holding evidence described in subsection 2, paragraph "k". The county attorney shall have sixty days to file an answer to the motion.
4. Any DNA profiling of the defendant or other biological evidence testing conducted by the state or by the defendant shall be disclosed and the results of such profiling or testing described in the motion or answer.
5. If the evidence requested to be tested was previously subjected to DNA or other biological analysis by either party, the court may order the disclosure of the results of such testing, including laboratory reports, notes, and underlying data, to the court and the parties.
6. The court may order a hearing on the motion to determine if evidence should be subjected to DNA analysis.
7. The court shall grant the motion if all of the following apply:
 - a. The evidence subject to DNA testing is available and in a condition that will permit analysis.
 - b. A sufficient chain of custody has been established for the evidence.
 - c. The identity of the person who committed the crime for which the defendant was convicted was a significant issue in the crime for which the defendant was convicted.
 - d. The evidence subject to DNA analysis is material to, and not merely cumulative or impeaching of, evidence included in the trial record or admitted to at a guilty plea proceeding.
 - e. DNA analysis of the evidence would raise a reasonable probability that the defendant would not have been convicted if DNA profiling had been available at the time of the conviction and had been conducted prior to the conviction.
8. Upon the court granting a motion filed pursuant to this section, DNA analysis of evidence shall be conducted within the guidelines generally accepted by the scientific community. The defendant shall provide DNA samples for testing if requested by the state.
9. Results of DNA analysis conducted pursuant to this section shall be reported to the parties and to the court and may be provided to the board of parole, department of corrections, and criminal and juvenile justice agencies, as defined in section 692.1, for use in the course

² According to enrolled Act

of investigations and prosecutions, and for consideration in connection with requests for parole, pardon, reprieve, and commutation. DNA samples obtained pursuant to this section may be included in the DNA data bank, and DNA profiles and DNA records developed pursuant to this section may be included in the DNA database.

10. A criminal or juvenile justice agency, as defined in section 692.1, shall maintain DNA samples and evidence that could be tested for DNA for a period of three years beyond the limitations for the commencement of criminal actions as set forth in chapter 802. This section does not create a cause of action for damages or a presumption of spoliation in the event evidence is no longer available for testing.

11. If the court determines a defendant who files a motion under this section is indigent, the defendant shall be entitled to appointment of counsel as provided in chapter 815.

12. If the court determines after DNA analysis ordered pursuant to this section that the results indicate conclusively that the DNA profile of the defendant matches the profile from the analyzed evidence used against the defendant, the court may order the defendant to pay the costs of these proceedings, including costs of all testing, court costs, and costs of court-appointed counsel, if any.

Sec. 11. Section 229A.7, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 5A. If the court or jury determines that the respondent is a sexually violent predator, the court shall order the respondent to submit a DNA sample for DNA profiling pursuant to section 81.4.

Sec. 12. Section 232.52, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 10. The court shall order a juvenile adjudicated a delinquent for an offense that requires DNA profiling under section 81.2 to submit a DNA sample for DNA profiling pursuant to section 81.4.

Sec. 13. Section 669.14, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 15. Any claim arising from or related to the collection of a DNA sample for DNA profiling pursuant to section 81.4 or a DNA profiling procedure performed by the division of criminal investigation, department of public safety.

Sec. 14. Section 901.5, subsection 8A, Code 2005, is amended to read as follows:

8A. a. The court shall order DNA profiling of a defendant convicted of an offense that requires profiling under section ~~13.10~~ 81.2.

b. Notwithstanding section ~~13.10~~ 81.2, the court may order the defendant to provide a ~~physical specimen~~ DNA sample to be submitted for DNA profiling if appropriate. In determining the appropriateness of ordering DNA profiling, the court shall consider the deterrent effect of DNA profiling, the likelihood of repeated offenses by the defendant, and the seriousness of the offense.

Sec. 15. Section 906.4, unnumbered paragraph 3, Code 2005, is amended to read as follows:

~~Notwithstanding section 13.10, the~~ The board may order the defendant to provide a physical specimen to be submitted for DNA profiling as a condition of parole or work release, if ~~appropriate~~ a DNA profile has not been previously conducted pursuant to chapter 81. In determining the appropriateness of ordering DNA profiling, the board shall consider the deterrent effect of DNA profiling, the likelihood of repeated offenses by the defendant, and the seriousness of the offense.

Sec. 16. 2002 Iowa Acts, chapter 1080, is repealed.

Sec. 17. Section 13.10, Code 2005, is repealed.

Sec. 18. PERSONS REQUIRED TO SUBMIT A DNA SAMPLE PRIOR TO EFFECTIVE DATE OF THIS DIVISION OF THIS ACT. A person convicted, adjudicated a delinquent, civilly committed as a sexually violent predator, or found not guilty by reason of insanity, prior to the effective date of this Act,³ who would otherwise be required to submit a DNA sample under this Act, and who is under the custody, control, or jurisdiction of a supervising agency, shall submit a DNA sample prior to being released from the supervising agency's custody, control, or jurisdiction.

Sec. 19. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II
SEX OFFENDER REGISTRY — TREATMENT — STUDY

Sec. 20. Section 232.68, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Cohabitation with a person on the sex offender registry under chapter 692A in violation of section 726.6.

Sec. 21. Section 692A.1, subsection 8, Code 2005, is amended to read as follows:

8. "Residence" means the place where a person sleeps, which may include more than one location, and may be mobile or transitory, including a shelter or group home.

Sec. 22. Section 692A.2, Code 2005, is amended by adding the following new subsections:
NEW SUBSECTION. 1A. If a person is required to register for a period of ten years under subsection 1 and the period under subsection 1 has expired, the person shall be required to remain on the registry if the person has been sentenced to a special sentence as required under section 903B.0A or 903B.0B, for a period equal to the term of the special sentence.

NEW SUBSECTION. 2A. If a person violates any of the requirements of section 692A.4, the person shall register for an additional ten years beginning from the date the first registration period ends as calculated under subsection 1 or from the date the special sentence ends under subsection 1A if the person received a special sentence, whichever is longer.

Sec. 23. Section 692A.4, Code 2005, is amended to read as follows:

692A.4 VERIFICATION OF ADDRESS AND TAKING OF PHOTOGRAPH.

1. The address of a person required to register under this chapter shall be verified annually as follows:

a. On a date which falls within the month in which the person was initially required to register, the department shall mail a verification form to the last reported address of the person. Verification forms shall not be forwarded to the person who is required to register under this chapter if the person no longer resides at the address, but shall be returned to the department.

b. The person shall complete and mail the verification to the department within ten days of receipt of the form.

c. The verification form shall be signed by the person, and state the address at which the person resides. If the person is in the process of changing residences, the person shall state that fact as well as the old and new addresses or places of residence.

2. Verification of address for a person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator shall be accomplished in the same manner as in subsection 1, except that the verification shall be done every three months at times established by the department.

3. A photograph of a person required to register under this chapter shall be updated, at a minimum, annually. When the department mails the address verification notice in subsection 1, the department shall also enclose a form informing the person to annually submit to being photographed by the sheriff of the county of the person's residence within ten days of receipt

³ The phrase "the effective date of this division of this Act" probably intended

of the address verification form. The sheriff shall send the updated photograph to the department within ten days of the photograph being taken and the department shall post the updated photograph on the sex offender registry's web page. The sheriff may require the person to submit to being photographed by the sheriff more than once a year by mailing another notice informing the person to submit to being photographed.

Sec. 24. NEW SECTION. 692A.4A ELECTRONIC MONITORING.

A person required to register under this chapter who is placed on probation, parole, work release, special sentence, or any other type of conditional release, may be supervised by an electronic tracking and monitoring system in addition to any other conditions of supervision. However, if the person committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor, the person shall be supervised⁴ by an electronic tracking and monitoring system in addition to any other conditions of release.

Sec. 25. Section 692A.5, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Inform the person that the person must, at a minimum, annually submit to being photographed by the sheriff of the county of the person's residence.

Sec. 26. Section 692A.13, subsection 3, Code 2005, is amended to read as follows:

3. Any member of the public may contact a county sheriff's office or police department to request relevant information from the registry regarding a specific person required to register under this chapter. The request for information shall be in writing, and A person making a request for relevant information may make the request by telephone, in writing, or in person, and the request shall include the name of the person and at least one of the following identifiers pertaining to the person about whom the information is sought:

- a. The date of birth of the person.
- b. The social security number of the person.
- c. The address of the person.

A county sheriff or police department shall not charge a fee relating to a request for relevant information.

Sec. 27. Section 692A.13, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. The general public, including public and private agencies, organizations, public places, ~~public and private schools~~, child care facilities, religious and youth organizations, neighbors, neighborhood associations, community meetings, and employers. Registry information may be distributed to the public through printed materials, visual or audio press releases, radio communications, or through a criminal or juvenile justice agency's web page.

Sec. 28. Section 692A.13, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. When a person required to register under this chapter moves into a school district or moves within a school district, the county sheriff of the county of the person's new residence shall provide relevant information from the sex offender registry to the administrative office of the school district in which the person required to register resides, and shall also provide relevant information to any private school near the person's residence.

Sec. 29. Section 692A.13, subsection 5, Code 2005, is amended to read as follows:

5. Relevant information provided to the general public may include the offender's name, address, a photograph, the results of any risk assessment, locations frequented by the offender, relevant criminal history information from the registry, and any other relevant information. Relevant information provided to the public shall not include the identity of any victim. For purposes of inclusion in the sex offender registry's web page or dissemination to the general public, a conviction for incest shall be disclosed as either a violation of section 709.4 or 709.8.

⁴ See chapter 179, §77 herein

Sec. 30. NEW SECTION. 692A.13A ASSESSMENT OF RISK.

1. The department of corrections, the department of human services, and the department of public safety shall, in consultation with one another, develop methods and procedures for the assessment of the risk for persons⁵ required to register under this chapter on or after the effective date of this division of this Act, who have committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor. The department of corrections, in consultation with the department of human services, the department of public safety, and the attorney general, shall adopt rules relating to assessment procedures. The assessment procedures shall include procedures for the sharing of information between the department of corrections, department of human services, the juvenile court, and the division of criminal investigation of the department of public safety, as well as the communication of the results of the risk assessment to criminal and juvenile justice agencies. The assignment of responsibility for the assessment of risk shall be as follows:

a. The department of corrections or a judicial district department of correctional services shall perform the assessment of risk for persons who are incarcerated in institutions under the control of the director of the department of corrections, persons who are under the supervision of the department of corrections or a judicial district department of correctional services, and persons who are under the supervision or control of the department of corrections or a judicial district department of correctional services through an interstate compact.

b. The department of human services shall perform the assessment of risk for persons who are confined in institutions under the control of the director of human services, persons who are under the supervision of the department of human services, and persons who are under the supervision or control of the department of human services through an interstate compact.

c. The division of criminal investigation of the department of public safety shall perform the assessment of risk for persons who have moved to Iowa but are not under the supervision of the department of corrections, a judicial district department of correctional services, or the department of human services; federal parolees or probationers; persons who have been released from a county jail but are not under the supervision of the department of corrections, a judicial district department of correctional services, a juvenile court officer of the judicial branch, or the department of human services; and persons who are convicted and released by the courts and are not incarcerated or placed under supervision pursuant to the court's sentencing order. Assessments of persons who have moved to Iowa and persons on federal parole or probation shall be performed on an expedited basis if the person was classified as a person with a high degree of likelihood of reoffending by the other jurisdiction or the federal government.

d. A juvenile court officer shall perform the assessment of risk for a juvenile who is adjudicated delinquent for a criminal offense listed in section 692A.1 and who is under the juvenile court officer's supervision.

2. The department of public safety shall be responsible for disclosing the assessment of risk information to a criminal or juvenile justice agency for law enforcement, prosecution, or for public notification purposes. The results of the assessment of risk shall be disclosed as other relevant information is disclosed under section 692A.13.

Sec. 31. Section 726.6, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Cohabits with a person after knowing the person is required to register or is on the sex offender registry as a sex offender under chapter 692A. However, this paragraph does not apply to a person who is a parent, guardian, or a person having custody or control over a child or a minor who is required to register as a sex offender, or to a person who is married to and living with a person required to register as a sex offender.

Sec. 32. Section 903A.2, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. Category "A" sentences are those sentences which are not subject to a maximum accu-

⁵ See chapter 179, §78 herein

mulation of earned time of fifteen percent of the total sentence of confinement under section 902.12. To the extent provided in subsection 5, category "A" sentences also include life sentences imposed under section 902.1. An inmate of an institution under the control of the department of corrections who is serving a category "A" sentence is eligible for a reduction of sentence equal to one and two-tenths days for each day the inmate demonstrates good conduct and satisfactorily participates in any program or placement status identified by the director to earn the reduction. The programs include but are not limited to the following:

- (1) Employment in the institution.
- (2) Iowa state industries.
- (3) An employment program established by the director.
- (4) A treatment program established by the director.
- (5) An inmate educational program approved by the director.

However, an inmate required to participate in a sex offender treatment program shall not be eligible for a reduction of sentence unless the inmate participates in and completes a sex offender treatment program established by the director.

An inmate serving a category "A" sentence is eligible for an additional reduction of sentence of up to three hundred sixty-five days of the full term of the sentence of the inmate for exemplary acts. In accordance with section 903A.4, the director shall by policy identify what constitutes an exemplary act that may warrant an additional reduction of sentence.

Sec. 33. Section 903B.1, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 7. A person who administers medroxyprogesterone acetate or any other pharmaceutical agent shall not be liable for civil damages for administering such pharmaceutical agents pursuant to this chapter.

Sec. 34. SEX OFFENDER INTERIM STUDY COMMITTEE. The legislative council is requested to authorize a study for the 2005 legislative interim on sexual abuse-related criminal offenses and the sex offender registry. The study recommendations and findings shall include but are not limited to identifying possible changes to sexual abuse-related offenses and the sex offender registry. The study report, including findings and recommendations, shall be submitted to the general assembly for consideration during the 2006 legislative session. The study shall be conducted by a study committee consisting of up to nine members of the general assembly. A chairperson or co-chairpersons shall be designated by the legislative council.

DIVISION III ENHANCED CRIMINAL PENALTIES AND STATUTE OF LIMITATIONS

Sec. 35. Section 709.8, Code 2005, is amended to read as follows:
709.8 LASCIVIOUS ACTS WITH A CHILD.

It is unlawful for any person ~~eighteen~~ sixteen years of age or older to perform any of the following acts with a child with or without the child's consent unless married to each other, for the purpose of arousing or satisfying the sexual desires of either of them:

1. Fondle or touch the pubes or genitals of a child.
2. Permit or cause a child to fondle or touch the person's genitals or pubes.
3. Solicit a child to engage in a sex act or solicit a person to arrange a sex act with a child.
4. Inflict pain or discomfort upon a child or permit a child to inflict pain or discomfort on the person.

Any person who violates a provision of this section involving an act included in subsection 1 or 2 shall, upon conviction, be guilty of a class "D" ~~"C"~~ felony. ~~A person who violates a provision of this section and who is sentenced to a term of confinement shall also be sentenced to an additional term of parole or work release not to exceed two years. The board of parole shall determine whether the person should be released on parole or placed in a work release program. The sentence of an additional term of parole or work release supervision shall com-~~

~~mence immediately upon the expiration of the preceding sentence and shall be under the terms and conditions as set out in chapter 906. Violations of parole or work release shall be subject to the procedures set out in chapter 905 or 908 or rules adopted under those chapters. The sentence of an additional term of parole or work release shall be consecutive to the original term of confinement. Any person who violates a provision of this section involving an act included in subsection 3 or 4 shall, upon conviction, be guilty of a class "D" felony.~~

Sec. 36. Section 802.2, Code 2005, is amended to read as follows:

802.2 SEXUAL ABUSE — FIRST, SECOND, OR THIRD DEGREE.

1. An information or indictment for sexual abuse in the first, second, or third degree committed on or with a person who is under the age of eighteen years shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age, or if the identity of the person against whom the information or indictment is sought is established through the use of a DNA profile, an information or indictment shall be found within three years from the date the identity of the person is identified by the person's DNA profile, whichever is later.

2. An information or indictment for any other sexual abuse in the first, second, or third degree shall be found within ten years after its commission, or if the identity of the person against whom the information or indictment is sought is established through the use of a DNA profile, an information or indictment shall be found within three years from the date the identity of the person is identified by the person's DNA profile, whichever is later.

3. As used in this section, "identified" means a person's legal name is known and the person has been determined to be the source of the DNA.

Sec. 37. Section 901.5, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 13. In addition to any other sentence or other penalty imposed against the defendant, the court shall impose a special sentence if required under section 903B.0A or 903B.0B.

Sec. 38. NEW SECTION. 902.15 ENHANCED PENALTY — SEXUAL ABUSE OR LASCIVIOUS ACTS WITH A CHILD.

1. A person commits a class "A" felony if the person commits a second or subsequent offense involving any combination of the following offenses:

- a. Sexual abuse in the second degree in violation of section 709.3.
- b. Sexual abuse in the third degree in violation of section 709.4.
- c. Lascivious acts with a child in violation of section 709.8, subsection 1 or 2.

2. In determining if a violation charged is a second or subsequent offense for purposes of criminal sentencing in this section, each previous violation on which conviction or deferral of judgment was entered prior to the date of the violation charged shall be considered and counted as a separate previous offense, regardless of whether the previous offense occurred before, on, or after the effective date of this Act.⁶ Convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to the offenses listed in subsection 1 shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses listed in subsection 1 and can therefore be considered corresponding statutes.

Sec. 39. NEW SECTION. 903B.0A SPECIAL SENTENCE — CLASS "B" OR CLASS "C" FELONIES.

A person convicted of a class "C" felony or greater offense under chapter 709, or a class "C" felony under section 728.12, shall also be sentenced, in addition to any other punishment provided by law, to a special sentence committing the person into the custody of the director of the Iowa department of corrections for the rest of the person's life, with eligibility for parole as provided in chapter 906. The special sentence imposed under this section shall commence upon completion of the sentence imposed under any applicable criminal sentencing provi-

⁶ The phrase "the effective date of this division of this Act" probably intended

sions for the underlying criminal offense and the person shall begin the sentence under supervision as if on parole. The person shall be placed on the corrections continuum in chapter 901B, and the terms and conditions of the special sentence, including violations, shall be subject to the same set of procedures set out in chapters 901B, 905, 906, and chapter 908, and rules adopted under those chapters for persons on parole. The revocation of release shall not be for a period greater than two years upon any first revocation, and five years upon any second or subsequent revocation. A special sentence shall be considered a category "A" sentence for purposes of calculating earned time under section 903A.2.

Sec. 40. NEW SECTION. 903B.0B SPECIAL SENTENCE — CLASS "D" FELONIES OR MISDEMEANORS.

A person convicted of a misdemeanor or a class "D" felony offense under chapter 709, section 726.2, or section 728.12 shall also be sentenced, in addition to any other punishment provided by law, to a special sentence committing the person into the custody of the director of the Iowa department of corrections for a period of ten years, with eligibility for parole as provided in chapter 906. The special sentence imposed under this section shall commence upon completion of the sentence imposed under any applicable criminal sentencing provisions for the underlying criminal offense and the person shall begin the sentence under supervision as if on parole. The person shall be placed on the corrections continuum in chapter 901B, and the terms and conditions of the special sentence, including violations, shall be subject to the same set of procedures set out in chapters 901B, 905, 906, and 908, and rules adopted under those chapters for persons on parole. The revocation of release shall not be for a period greater than two years upon any first revocation, and five years upon any second or subsequent revocation. A special sentence shall be considered a category "A" sentence for purposes of calculating earned time under section 903A.2.

Sec. 41. Section 903B.1, subsection 3, Code 2005, is amended by striking the subsection.

Sec. 42. Section 906.15, unnumbered paragraph 1, Code 2005, is amended to read as follows:

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 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 any event, discharge from parole shall terminate the person's sentence. If a person has been sentenced to a special sentence under section 903B.0A or 903B.0B, the person may be discharged early from the sentence in the same manner as any other person on parole. However, a person convicted of a violation of section 709.3, 709.4, or 709.8 committed on or with a child, or a person serving a sentence under section 902.12, 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.

Sec. 43. Section 908.5, Code 2005, is amended to read as follows:
908.5 DISPOSITION.

1. If a violation of parole is established, the administrative parole judge may continue the parole with or without any modification of the conditions of parole. The administrative parole judge may revoke the parole and require the parolee to serve the sentence originally imposed, or may revoke the parole and reinstate the parolee's work release status.

2. If the person is serving a special sentence under chapter 903B, the administrative parole judge may revoke the release. Upon the revocation of release, the person shall not serve the entire length of the special sentence imposed, and the revocation shall be for a period not to exceed two years in a correctional institution upon a first revocation and for a period not to exceed five years in a correctional institution upon a second or subsequent revocation.

3. The order of the administrative parole judge shall contain findings of fact, conclusions of law, and a disposition of the matter.

DIVISION IV
VICTIM RIGHTS

Sec. 44. NEW SECTION. 235D.1 CRIMINAL HISTORY CHECK — APPLICANTS AT DOMESTIC ABUSE OR SEXUAL ASSAULT CENTERS.

An applicant for employment at a domestic abuse or sexual assault center shall be subject to a national criminal history check through the federal bureau of investigation. The domestic abuse or sexual assault center shall request the criminal history check and shall provide the applicant's fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The applicant shall authorize release of the results of the criminal history check to the domestic abuse or sexual assault center. The applicant shall pay the actual cost of the fingerprinting and criminal history check, if any. Unless the criminal history check was completed within the ninety calendar days prior to the date the application is received by the domestic abuse or sexual assault center, the center shall reject and return the application to the applicant. The results of a criminal history check conducted pursuant to this subsection shall not be considered a public record under chapter 22. For purposes of this section, "domestic abuse or sexual assault center" means a crime victim center as defined in section 915.20A.

Sec. 45. NEW SECTION. 709.22 PREVENTION OF FURTHER SEXUAL ASSAULT — NOTIFICATION OF RIGHTS.

If a peace officer has reason to believe that a sexual assault as defined in section 915.40 has occurred, the officer shall use all reasonable means to prevent further violence including but not limited to the following:

1. If requested, remaining on the scene of the alleged sexual assault as long as there is a danger to the victim's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain on the scene, assisting the victim in leaving the residence.

2. Assisting a victim in obtaining medical treatment necessitated by the sexual assault, including providing assistance to the victim in obtaining transportation to the emergency room of the nearest hospital.

3. Providing a victim with immediate and adequate notice of the victim's rights. The notice shall consist of handing the victim a copy of the following statement written in English and Spanish, asking the victim to read the statement, and asking whether the victim understands the rights:

"You have the right to ask the court for help with any of the following on a temporary basis:

a. Keeping your attacker away from you, your home, and your place of work.

b. The right to stay at your home without interference from your attacker.

c. The right to seek a no-contact order under section 709.20 or 915.22, if your attacker is arrested for sexual assault.

You have the right to register as a victim with the county attorney under section 915.12.

You have the right to file a complaint for threats, assaults, or other related crimes.

You have the right to seek restitution against your attacker for harm to you or your property.

You have the right to apply for victim compensation.

You have the right to contact the county attorney or local law enforcement to determine the status of your case.

If you are in need of medical treatment, you have the right to request that the officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

You have the right to a sexual assault examination performed at state expense.

If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and other affected parties can leave or until safety is otherwise ensured.”

The notice shall also contain the telephone numbers of shelters, support groups, and crisis lines operating in the area.

4. A peace officer is not civilly or criminally liable for actions taken in good faith pursuant to this section.

Sec. 46. Section 915.10, subsections 1 and 2, Code 2005, are amended to read as follows:

1. “Notification” means mailing by regular mail or providing for hand delivery of appropriate information or papers. However, this notification procedure does not prohibit an office, agency, or department from also providing appropriate information to a registered victim by telephone, electronic mail, or other means.

2. “Registered” means having provided the county attorney with the victim’s written request for registration and current mailing address and telephone number. If an automated victim notification system is implemented pursuant to section 915.10A, “registered” also means having filed a request for registration with the system.

Sec. 47. NEW SECTION. 915.10A AUTOMATED VICTIM NOTIFICATION SYSTEM.

1. An automated victim notification system may be utilized to assist public officials in informing crime victims, the victim’s family, or other interested persons as provided in this subchapter and where otherwise specifically provided. The system shall disseminate the information to registered users through telephonic, electronic, or other means of access.

2. An office, agency, or department may satisfy a notification obligation to registered victims required by this subchapter through participation in the system to the extent information is available for dissemination through the system. Nothing in this section shall relieve a notification obligation under this subchapter due to the unavailability of information for dissemination through the system.

3. Notwithstanding section 232.147, information concerning juveniles charged with a felony offense shall be released to the extent necessary to comply with this section.

Sec. 48. Section 915.11, Code 2005, is amended to read as follows:

915.11 INITIAL NOTIFICATION BY LAW ENFORCEMENT.

A local police department or county sheriff’s department shall advise a victim of the right to register with the county attorney, and shall provide a request-for-registration form to each victim. If an automated victim notification system is available pursuant to section 915.10A, a local police department or county sheriff’s department shall provide a telephone number and website to each victim to register with the system.

Sec. 49. Section 915.12, Code 2005, is amended to read as follows:

915.12 REGISTRATION.

~~1. The county attorney shall be the sole registrar of victims under this subchapter.~~

2. 1. A victim may register by filing a written request-for-registration form with the county attorney. The county attorney shall notify the victims in writing and advise them of their registration and rights under this subchapter.

3. The county attorney shall provide a registered victim list to the offices, agencies, and departments required to provide information under this subchapter for notification purposes.

2. If an automated victim notification system is available pursuant to section 915.10A, a victim, the victim’s family, or other interested person may register with the system by filing a request for registration through written, telephonic, or electronic means.

4. ~~3.~~ Notwithstanding chapter 22 or any other contrary provision of law, a victim’s the

registration of a victim, victim's family, or other interested person shall be strictly maintained in a separate confidential file or other confidential medium, and shall be available only to the offices, agencies, and departments required to provide information under this subchapter.

Sec. 50. Section 915.29, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The notification required pursuant to this section may occur through the automated victim notification system referred to in section 915.10A to the extent such information is available for dissemination through the system.

Sec. 51. Section 915.45, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The notification required pursuant to this section may occur through the automated victim notification system referred to in section 915.10A to the extent such information is available for dissemination through the system.

DIVISION V TASK FORCE

Sec. 52. SEX OFFENDER TREATMENT AND SUPERVISION TASK FORCE.

1. The division of criminal and juvenile justice planning shall establish a task force to study and make periodic recommendations for treating and supervising sex offenders in correctional institutions and in the community. The task force shall file a report with recommendations with the general assembly by January 15, 2006. The task force shall study the effectiveness of electronic monitoring and the potential effects and costs associated with the special sentence created in this Act. The task force shall study risk assessment models created for sex offenders. The task force shall also review this state's efforts and the efforts of other states to implement treatment programs and make recommendations as to the best treatment options available for sex offenders. The task force shall also develop a plan to integrate state government databases for the purpose of updating addresses of persons on the sex offender registry.

2. Members of the task force shall include members of the general assembly selected by the legislative council and representatives of the following:

- a. One representative from the state department of transportation.
- b. One representative of the Iowa civil liberties union.
- c. One representative of the department of human services.
- d. One representative of the department of public safety.
- e. One representative of the Iowa state sheriffs and deputies association.
- f. One representative of the Iowa county attorneys association.
- g. One representative of the department of corrections.
- h. One representative of the board of parole.
- i. One representative of a judicial district department of correctional services.
- j. One representative of the department of justice.
- k. One representative of the state public defender.
- l. One representative of the Iowa coalition against sexual assault.

DIVISION VI SEVERABILITY CLAUSE

Sec. 53. SEVERABILITY CLAUSE. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

DIVISION VII
STATE MANDATE

Sec. 54. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved June 14, 2005

CHAPTER 159

AGRICULTURE REGULATION — VETERINARY MEDICINE,
MOTOR VEHICLE FUEL DEALERS, AND WATERSHED IMPROVEMENT

S.F. 200

AN ACT relating to agriculture by providing for the powers and duties of the department of agriculture and land stewardship and watershed improvement.

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

DIVISION I
IOWA BOARD OF VETERINARY MEDICINE —
ELIMINATION OF REPORTING REQUIREMENT

Section 1. Section 169.5, subsection 7, unnumbered paragraph 3, Code 2005, is amended by striking the unnumbered paragraph.

DIVISION II
MOTOR VEHICLE FUEL DEALERS — ELIMINATION OF
VOLUNTARY SAMPLING PROCEDURE AND FEE

Sec. 2. Section 214A.6, Code 2005, is repealed.

DIVISION III
WATERSHED IMPROVEMENT

Sec. 3. NEW SECTION. 466A.1 DEFINITIONS.

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

1. “Board” means the watershed improvement review board as established in section 466A.3.
2. “Committee” means a local watershed improvement committee as provided in section 466A.4.
3. “Division” means the division of soil conservation within the department of agriculture and land stewardship as established in section 161A.4.
4. “Fund” means the watershed improvement fund as created pursuant to section 466A.2.

Sec. 4. NEW SECTION. 466A.2 WATERSHED IMPROVEMENT FUND.

1. A watershed improvement fund is created in the state treasury which shall be administered by the treasurer of state upon direction of the watershed improvement review board.