

work or to transport dependents of temporary care facilities if necessary to maintain the person's employment and upon receipt of a written statement from the public or private school that an approved course in driver's education was not offered or available to the person, if applicable. The employer shall notify the department if the employment of the person is terminated before the person attains the age of eighteen. The person shall not have a restricted license revoked or suspended upon re-entering school prior to age eighteen provided the student enrolls in and completes the classroom portion of an approved driver's education course as soon as a course is available.

Sec. 2. Section 321.178, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 3. DRIVER'S LICENSE RECIPROCITY.

a. The department may issue a class C or M driver's license to a person who is sixteen or seventeen years of age and who is a current resident of the state, but who has been driving as a resident of another state for at least one year prior to residency within the state.

b. The following criteria must be met prior to issuance of a driver's license pursuant to this subsection:

(1) The minor must reside with a parent or guardian.

(2) The minor must have driven under a valid driver's license for at least one year in the prior state of residence. Six months of the one year computation may include driving with an instruction permit.

(3) The minor must have had no moving traffic violations on the minor's driving record.

(4) The minor must pass the written and driving skills tests as required by the department, but is not required to have taken a driver's education class.

Approved May 7, 1991

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## CHAPTER 129

### ELECTION LAWS

*H.F. 420*

**AN ACT** relating to corrective changes to Iowa's election laws, providing emergency powers to the state commissioner of elections, relating to election nomination papers and affidavits, the affidavit filing requirements for a single public office by primary election candidates and certain general election candidates, and relating to absentee voting.

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

Section 1. Section 43.14, unnumbered paragraph 2, Code 1991, is amended to read as follows:

"I, the undersigned, an eligible elector of ..... county or legislative district, and state of Iowa, hereby nominate ..... of ..... county or legislative district, state of Iowa, who has affiliated registered with and is a member of the ..... party, as a candidate for the office of ..... to be voted for at the primary election to be held on ....."

Sec. 2. Section 43.18, unnumbered paragraph 2, Code 1991, is amended to read as follows:

I, ....., being duly sworn, say that I reside at ..... street, city of ....., county of ..... in the state of Iowa; that I am eligible to the office for which I am a candidate, and that the political party with which I affiliate is I am registered with the ..... party; that I am a candidate for nomination to the office of ..... to be made at the primary election to be held on ....., and hereby request that my name be printed upon the official primary ballot as provided by law, as a candidate of that party. I furthermore declare that if I am nominated and elected I will qualify as such officer.

Sec. 3. Section 43.18, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

**NEW UNNUMBERED PARAGRAPH.** I am aware that I shall not cause nomination papers for more than one public office to be voted for at the primary election, to remain filed in the office of the state commissioner or the commissioner unless I, not later than the final date for filing nomination papers, notify the state commissioner or the commissioner by affidavit of the office for which I elect to be a candidate. I am aware that violation of section 43.20 will invalidate my candidacy for any office to be filled at the primary election.

I am further aware that section 43.20, subsection 4, unnumbered paragraph 3, does not apply to the offices of county agricultural extension council, soil and water conservation district commission, or regional library board of trustees.

Sec. 4. Section 43.42, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

**43.42 CHANGE OR DECLARATION OF PARTY AFFILIATION AT POLLS.**

Any qualified elector may change or declare a party affiliation at the polls on election day and shall be entitled to vote at any primary election. Each elector doing so shall indicate the elector's change or declaration of party affiliation on the voter's declaration of eligibility affidavit.

**Sec. 5. NEW SECTION. 43.43 VOTER'S DECLARATION OF ELIGIBILITY.**

Each person voting at a primary election shall sign a declaration of eligibility which shall be in substantially the following form:

I do solemnly swear or affirm that I am a resident of the \_\_\_\_\_ precinct, \_\_\_\_\_ ward or township, city of \_\_\_\_\_, county of \_\_\_\_\_, Iowa.

I am a qualified elector. I have not voted and will not vote in any other precinct in this election.

I am affiliated with the \_\_\_\_\_ party. If my current voter registration record indicates another party affiliation or no party affiliation, I swear or affirm that I have in good faith changed my previously declared party affiliation, or declared my party affiliation, and now desire to be a member of the party indicated above.

\_\_\_\_\_  
Signature of voter

\_\_\_\_\_  
Address  
( )

\_\_\_\_\_  
Telephone

Approved:

\_\_\_\_\_  
Election board member

\_\_\_\_\_  
Date

Sec. 6. Section 43.67, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

**NEW UNNUMBERED PARAGRAPH.** I am aware that I shall not cause nomination papers for more than one public office to be filled at the general election, to remain filed in the office of the state commissioner or the commissioner unless I, not later than the final date for filing nomination papers, notify the state commissioner or the commissioner by affidavit of the office for which I elect to be a candidate. I am aware that violation of section 49.41 will invalidate my candidacy for any office to be filled at the general election.

I am further aware that section 49.41, does not apply to the offices of county agricultural extension council, soil and water conservation district commission, or regional library board of trustees.

Sec. 7. Section 44.3, subsection 2, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. I am aware that I shall not cause nomination papers for more than one public office to be filled at the general election, to remain filed in the office of the state commissioner or the commissioner unless I, not later than the final date for filing nomination papers, notify the state commissioner or the commissioner by affidavit of the office for which I elect to be a candidate. I am aware that violation of section 49.41 will invalidate my candidacy for any office to be filled at the general election.

I am further aware that section 49.41, does not apply to the offices of county agricultural extension council, soil and water conservation district commission, or regional library board of trustees.

Sec. 8. Section 44.9, subsections 5 and 6, Code 1991, are amended to read as follows:

5. In the office of the proper commissioner, ~~or school board secretary or city clerk~~, in case of a special election to fill vacancies, at least twenty-five days before the day of election.

6. In the office of the proper city clerk, at least forty-two days before the regularly scheduled or special city election.

Sec. 9. Section 45.3, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. I am aware that I shall not cause nomination papers for more than one public office to be filled at the general election, to remain filed in the office of the state commissioner or the commissioner unless I, not later than the final date for filing nomination papers, notify the state commissioner or the commissioner by affidavit of the office for which I elect to be a candidate. I am aware that violation of section 49.41 will invalidate my candidacy for any office to be filled at the general election.

I am further aware that section 49.41, does not apply to the offices of county agricultural extension council, soil and water conservation district commission, or regional library board of trustees.

Sec. 10. Section 47.1, Code 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The state commissioner of elections may exercise emergency powers over any election being held in a district in which either a natural disaster or extremely inclement weather has occurred. The state commissioner of elections may also exercise emergency powers during an armed conflict involving United States armed forces, or mobilization of those forces, or if an election contest court finds that there were errors in the conduct of an election making it impossible to determine the result.

NEW UNNUMBERED PARAGRAPH. The state commissioner shall adopt rules describing the emergency powers and the situations in which the powers will be exercised.

Sec. 11. Section 48.31, subsection 6, Code 1991, is amended to read as follows:

6. When first-class mail, which is designated "not to be forwarded", was addressed to the elector at the address shown on the registration records and is returned by the postal service. However, if any first-class mail, other than a registration receipt mailed pursuant to section 48.3, was addressed to a qualified elector and is returned by the postal service less than sixty days before the date of a general election, the elector's registration shall not be canceled until after the general election is held.

Sec. 12. Section 49.31, subsection 6, Code 1991, is amended to read as follows:

6. For the ~~purposes~~ purpose of ballot rotation the absentee ballot and special voters precinct ~~shall~~ may be considered a separate precinct, ~~unless the office will appear on the ballot in only one precinct other than the absentee ballot and special voters precinct.~~

Sec. 13. Section 49.41, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

#### 49.41 MORE THAN ONE OFFICE PROHIBITED.

A person shall not be a candidate for more than one office to be filled at the same election. A person who has been nominated for more than one office shall file a written notice declaring the office for which the person wishes to appear on the ballot.

If the nomination papers for all offices for which the candidate has been nominated are required to be filed with the same commissioner of elections, the candidate shall file a written notice with that commissioner no later than five p.m. on the final date upon which nomination papers may be filed for the election. The notice shall state the office for which the person wishes to appear on the ballot. If the required notice is not filed, the candidate's name shall not be certified by the state commissioner for any office for which nomination papers are filed with the state commissioner and the county commissioner of elections shall not include the candidate's name on the ballot for any office in any county.

If a person is a candidate for one or more offices for which nomination papers are required to be filed with the state commissioner and one or more offices for which nomination papers are required to be filed with the county commissioner, the candidate shall notify the state commissioner and the county commissioner in writing. The notice shall state the office for which the person chooses to remain a candidate. The notice shall be filed no later than the last day to file nomination papers with the commissioner. If the required notice is not filed, the candidate's name shall not appear on the ballot for any office in any county.

If necessary, the county commissioner shall certify to the state commissioner the name of any person who is a candidate for more than one office which will appear on the ballot for the election. The certification of dual candidacy shall be made no later than five p.m. on the day following the final day to file nomination papers in the office of the commissioner.

When the state commissioner receives notice from the county commissioner that a candidate for a state or federal office has also been nominated for a county or township office, the state commissioner shall amend the certificate issued pursuant to section 43.73 and notify the commissioners of any other counties to whom the candidate's name was originally certified and instruct them to remove the candidate's name from the ballot in those counties.

This section does not apply to the following public offices: county agricultural extension council, soil and water conservation district commission, or regional library board of trustees.

Sec. 14. Section 50.13, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the ballots are to be shredded, the package may be opened, if necessary, but the ballots shall not be examined before shredding. Shredded ballots may be recycled.

Sec. 15. Section 50.30, Code 1991, is amended to read as follows:

#### 50.30 ABSTRACTS FORWARDED TO STATE COMMISSIONER.

The commissioner shall, within ten days after the election, forward to the state commissioner in ~~separate, securely sealed envelopes~~, one of the said duplicate abstracts of votes for each of the following offices:

1. President and vice president of the United States.
2. Senator in Congress.
3. Representative in Congress.
4. Governor and lieutenant governor.
5. Senator or representative in the general assembly by districts.
6. A state officer not otherwise specified above.

The abstracts for all offices except governor and lieutenant governor shall be enclosed in a securely sealed envelope.

Sec. 16. Section 50.32, Code 1991, is amended to read as follows:

#### 50.32 ENDORSEMENT ON OTHER ~~ENVELOPES~~ ENVELOPE.

~~Said remaining envelopes~~ The envelope for offices other than governor and lieutenant governor shall be endorsed substantially in the manner provided in section 50.31, with changes

necessary to indicate the particular office offices, and each shall be addressed, "To the State Commissioner of Elections".

Sec. 17. Section 53.2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Any qualified elector, under the circumstances specified in section 53.1, may on any day, except election day, and not more than seventy days prior to the date of the election, apply in person for an absentee ballot at the commissioner's office or at any location designated by the commissioner, or make written application to the commissioner for an absentee ballot. The state commissioner shall prescribe a form for absentee ballot applications. However, if an elector submits an application that includes all of the information required in this section, the prescribed form is not required.

Sec. 18. Section 53.7, Code 1991, is amended to read as follows:

**53.7 SOLICITATION BY PUBLIC EMPLOYEES.**

1. It shall be unlawful for any employee of the state or any employee of a political subdivision thereof to solicit any application or request for application for an absentee ballot, or to take an affidavit in connection with any absentee ballot while the employee is on the employer's premises or otherwise in the course of employment. However, any such employee may take such affidavit in connection with an absentee ballot which is cast by the qualified elector in person in the office where such employee is employed in accordance with section 53.11. This ~~section~~ subsection shall not apply to any elected official.

2. Any public officer or employee, or any person acting under color of a public officer or employee, who knowingly requires that a public employee solicit an application or request for an application for an absentee ballot, or knowingly requires that an employee take an affidavit or request for an affidavit in connection with an absentee ballot application commits a serious misdemeanor.

Sec. 19. Section 53.11, is amended to read as follows:

**53.11 PERSONAL DELIVERY OF ABSENTEE BALLOT.**

The commissioner shall deliver an absentee ballot to any qualified elector applying in person at the commissioner's office, or at any location designated by the commissioner, not more than forty days before the date of the general election ~~and or~~ the primary election, and for all other elections, as soon as the ballot is available. The qualified elector shall immediately mark the ballot, enclose and seal it in a ballot envelope, subscribe to the affidavit on the reverse side of the envelope, and return the absentee ballot to the commissioner. The commissioner shall record the numbers appearing on the application and ballot envelope along with the name of the qualified elector. ~~The commissioner of any county in which there is located a city of five thousand or more population, which is not the county seat, may permit qualified electors to appear in person at some designated place within each such city and there cast an absentee ballot in the manner prescribed by this section.~~

Sec. 20. Section 53.18, Code 1991, is amended to read as follows:

**53.18 MANNER OF PRESERVING BALLOT AND APPLICATION.**

Upon receipt of the absentee ballot, the commissioner shall at once record the number appearing on the application and return carrier envelope and time of receipt of such ballot and ~~enclose the same, unopened, together with the application made by the qualified elector, in a large carrier envelope on which shall appear the words "This envelope contains an absent voter's ballot for the election", and securely seal the same attach the elector's application to the unopened envelope.~~ Absentee ballots shall be stored in a secure place until they are delivered to the absentee and special voters.

Sec. 21. Section 69.13, subsections 1 and 2, Code 1991, are amended to read as follows:

1. **SENATOR IN CONGRESS AND ELECTIVE STATE OFFICERS.** If a vacancy occurs in the office of senator in the Congress of the United States, lieutenant governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, or attorney general ~~seventy-five~~ eighty-nine or more days ~~prior to~~ before a general election, and the unexpired term in

which the vacancy exists has more than seventy days to run after the date of that general election, the vacancy shall be filled for the balance of the unexpired term at that general election and the person elected to fill the vacancy shall assume office as soon as a certificate of election has been issued and the person has qualified.

2. COUNTY OFFICERS. If a vacancy occurs in the office of county supervisor or in any of the offices listed in section 39.17 ~~sixty seventy-four~~ or more days ~~prior to~~ before a general election, and the unexpired term in which the vacancy exists has more than seventy days to run after the date of that general election, the vacancy shall be filled for the balance of the unexpired term at that general election and the person elected to fill the vacancy shall assume office as soon as a certificate of election has been issued and the person has qualified.

Sec. 22. Section 176A.8, subsection 5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

To and shall, at least ninety days prior to the date fixed for the election of council members, appoint a nominating committee consisting of four persons who are not council members and designate the chairperson. The membership of the nominating committee shall be gender balanced. The nominating committee shall consider the geographic distribution of potential nominees in nominating one or more resident qualified electors of the extension district as candidates for election to each office to be filled at the election. To qualify for the election ballot, each nominee shall file a nominating petition signed by at least twenty-five qualified eligible electors of the district with the county commissioner of elections at least sixty-nine days before the date of election.

Sec. 23. Section 230A.5, Code 1991, is amended to read as follows:

230A.5 ELECTION OF TRUSTEES.

The election of community mental health center trustees shall take place at the general election on ballots which shall not reflect a nominee's political affiliation. Nomination shall be made by petition in accordance with chapter 45. The petition form shall be furnished by the county commissioner of elections, signed by eligible electors of the county or affiliated counties equal in number to one percent of the vote cast therein for president of the United States or governor, as the case may be, in the last previous general election, and shall be filed with the county commissioner of elections at least ~~fifty-five days prior to the date of the general election~~. A plurality shall be sufficient to elect community mental health center trustees, and no primary election for that office shall be held.

Sec. 24. Section 330.17, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The council of any city or county which owns or acquires an airport may, and upon the council's receipt of a valid petition as provided in section 362.4, or receipt of a petition by the board of supervisors as provided in section 331.306 shall, at a regular city election or a general election if one is to be held within ~~sixty seventy-four~~ days from the filing of the petition, or otherwise at a special election called for that purpose, submit to the voters the question as to whether the management and control of the airport shall be placed in an airport commission. If a majority of the voters favors placing the management and control of the airport in an airport commission, the commission shall be established as provided in this chapter.

Sec. 25. Section 331.237, subsection 1, Code 1991, is amended to read as follows:

1. If a proposed charter for county government is received not later than sixty five working days before the filing deadline for candidates for county offices specified in section 44.4 for the next general election, the board shall direct the county commissioner of elections to submit to the qualified electors of the county at the next general election the question of whether the proposed charter shall be adopted. If a majority of the votes cast on the question is in favor of the proposal, the proposal is adopted.

Sec. 26. Section 347.25, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The election of hospital trustees whose offices are established by this chapter or chapter 145A or 347A shall take place at the general election on ballots which shall not reflect a nominee's

political affiliation. Nomination shall be made by petition in accordance with chapter 45. The petition form shall be furnished by the county commissioner of elections, signed by fifty eligible electors of the county, and shall be filed with the county commissioner of elections at least fifty-five days prior to the date of the general election. A plurality is sufficient to elect hospital trustees.

Sec. 27. Section 477B.6, subsection 1, unnumbered paragraph 2, Code 1991, is amended to read as follows:

“Shall the following public measure be adopted? YES NO

“Should enhanced Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a monthly surcharge of (an amount determined by the local joint E911 service board of up to one dollar) on each telephone access line collected as part of each telephone subscriber's monthly phone bill if provided within (description of the proposed E911 service area)?”

Sec. 28. Section 477B.6, subsection 2, unnumbered paragraph 2, Code 1991, is amended to read as follows:

At the request of the joint E911 service board a county commissioner of elections shall include the question on the next eligible general election ballot in each electoral precinct to be served, in whole or in part, by the proposed E911 service area, provided the request is timely submitted to permit inclusion. The question may be included in the next election in which all of the voters in the proposed E911 service area will be eligible to vote on the same day, such as a primary, general, or school board election. The county commissioner of elections shall report the results to the joint E911 service board. The joint E911 service board shall compile the results if subscribers from more than one county are included within the proposed service area. The joint E911 service board shall announce whether a simple majority of the compiled votes reported by the commissioner approved the referendum question.

Approved May 7, 1991

## CHAPTER 130

### SEXUAL EXPLOITATION BY COUNSELOR OR THERAPIST

#### S.F. 2

**AN ACT** relating to sexual exploitation by a counselor or therapist and providing penalties.

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

Section 1. Section 702.11, Code 1991, is amended to read as follows:

702.11 FORCIBLE FELONY.

A “forcible felony” is any felonious child endangerment, assault, murder, sexual abuse other than sexual abuse in the third degree committed between spouses or in violation of section 709.4, subsection 2, paragraph “c”, subparagraph (4), kidnapping, robbery, arson in the first degree, or burglary in the first degree. However, sexual abuse in the third degree committed between spouses, sexual abuse in violation of section 709.4, subsection 2, paragraph “c”, subparagraph (4), or sexual exploitation by a counselor or therapist in violation of section 709.15, is not a “forcible felony”.

Sec. 2. NEW SECTION. 709.15 SEXUAL EXPLOITATION BY A COUNSELOR OR THERAPIST.

1. As used in this section:

a. “Counselor or therapist” means a physician, psychologist, nurse, professional counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services.