

b. If more than one utility has on file maps indicating service in the same territory, the board shall request the involved utilities to resolve the overlap. If the overlap is not resolved in a reasonable time, the board, after notice to interested persons and opportunity for hearing, shall determine the boundary, taking into consideration the criteria listed in subsection 11.

13. Whenever the board or the consumer advocate deems it necessary to carry out duties related to the implementation of this section, the board or consumer advocate may contract for necessary services with persons who are not state employees including, but not limited to, cartographers, engineers, and surveyors. The cost of services contracted for shall not be paid from appropriated funds, but shall be assessed pro rata to all utilities receiving certificates based on the number of each utility's access lines.

14. This section does not prevent the board from adopting rules requiring or allowing local exchange utilities to provide extended area service or adjacent exchange service.

15. The board shall provide a written report to the general assembly no later than January 20, 2005, describing the current status of local telephone service in this state. The report shall include at a minimum the number of certificates of convenience issued, the number of current providers of local telephone service, and any other information deemed appropriate by the board.

Sec. 2. REPEAL. Section 476.29, subsection 13, is amended by striking the subsection effective July 1, 1995.

Sec. 3. REPEAL. Section 476.29 is repealed effective July 1, 2007.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, is effective upon enactment.

Approved April 13, 1992

---

## CHAPTER 1059

### GENETIC TESTING

*S.F. 2145*

**AN ACT** relating to the use of genetic testing in employment situations by employers, employment agencies, labor organizations, and licensing agencies, and providing civil remedies.

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

Section 1. NEW SECTION. 729.6 GENETIC TESTING.

1. As used in this section, unless the context otherwise requires:

a. "Employer" means the state of Iowa, or any political subdivision, board, commission, department, institution, or school district, and every other person employing employees within the state.

b. "Employment agency" means a person, including the state, who regularly undertakes to procure employees or opportunities for employment for any other person.

c. "Genetic testing" means a test of a person's genes, gene products, or chromosomes, for abnormalities or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to illness, disease, impairment, or other disorders, whether physical or mental, or that demonstrate genetic or chromosomal damage due to environmental factors.

d. "Labor organization" means any organization which exists for the purpose in whole or in part of collective bargaining, or dealing with employers concerning grievances, terms, or conditions of employment, or of other mutual aid or protection in connection with employment.

e. "Licensing agency" means a board, commission, committee, council, department, examining board, or officer, except a judicial officer, in the state, or in a city, county, township, or local government, authorized to grant, deny, renew, revoke, suspend, annul, withdraw, or amend a license or certificate of registration.

f. "Unfair genetic testing" means any test or testing procedure that violates this section.

2. An employer, employment agency, labor organization, licensing agency, or its employees, agents, or members shall not directly or indirectly do any of the following:

a. Solicit, require, or administer a genetic test to a person as a condition of employment, preemployment application, labor organization membership, or licensure.

b. Affect the terms, conditions, or privileges of employment, preemployment application, labor organization membership, or licensure, or terminate the employment, labor organization membership, or licensure of any person who obtains a genetic test.

3. Except as provided in subsection 6A, a person shall not sell to or interpret for an employer, employment agency, labor organization, or licensing agency, or its employees, agents, or members, a genetic test of an employee, labor organization member, or licensee, or of a prospective employee, member, or licensee.

4. An agreement between a person and an employer, prospective employer, employment agency, labor organization, or licensing agency, or its employees, agents, or members offering the person employment, labor organization membership, licensure, or any pay or benefit in return for taking a genetic test is prohibited.

5. An employee, labor organization member, or licensee, or prospective employee, member, or licensee who acted in good faith shall not be discharged, disciplined, or discriminated against in any manner for filing a complaint or testifying in any proceeding or action involving violations of this section. An employee, labor organization member, or licensee, or prospective employee, member, or licensee discharged, disciplined, or otherwise discriminated against in violation of this section shall be compensated by the employer, employment agency, labor organization, or licensing agency in the amount of any loss of wages and benefits arising out of the discrimination.

6. This section may be enforced through a civil action.

a. A person who violates this section or who aids in the violation of this section is liable to an aggrieved employee, labor organization member, or licensee, or aggrieved prospective employee, member, or licensee, for affirmative relief including reinstatement or hiring, with or without back pay, membership, licensing, or any other equitable relief as the court deems appropriate including attorney fees and court costs.

b. If a person commits, is committing, or proposes to commit, an act in violation of this section, an injunction may be granted through an action in district court to prohibit the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee, labor organization member, or licensee, or aggrieved prospective employee, member, or licensee, the county attorney, or the attorney general.

A person who in good faith brings an action under this subsection alleging that an employer, employment agency, labor organization, or licensing agency has required or requested a genetic test in violation of this section shall establish that sufficient evidence exists upon which a reasonable person could find that a violation has occurred. Upon proof that sufficient evidence exists upon which a finding could be made that a violation has occurred as required under this paragraph, the employer, employment agency, labor organization, or licensing agency has the burden of proving that the requirements of this section were met.

6A. This section does not prohibit the genetic testing of an employee who requests a genetic test and who provides written and informed consent to taking a genetic test for any of the following purposes:

a. Investigating a workers' compensation claim under chapters 85, 85A, 85B, and 86.

b. Determining the employee's susceptibility or level of exposure to potentially toxic chemicals or potentially toxic substances in the workplace, if the employer does not terminate the

employee, or take any other action that adversely affects any term, condition, or privilege of the employee's employment as a result of the genetic test.

Approved April 13, 1992

## CHAPTER 1060

### DEGREES OF PROPERTY OFFENSES

*S.F. 2266*

**AN ACT** relating to the property offenses of theft, fraudulent practices, false use of a credit card, criminal mischief, computer damage, and computer theft, and changing the dollar values of the property involved in order to commit various degrees of these offenses.

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

Section 1. Section 714.2, Code 1991, is amended to read as follows:

#### 714.2 DEGREES OF THEFT.

1. The theft of property exceeding five ten thousand dollars in value, or the theft of property from the person of another, or from a building which has been destroyed or left unoccupied because of physical disaster, riot, bombing, or the proximity of battle, or the theft of property which has been removed from a building because of a physical disaster, riot, bombing, or the proximity of battle, is theft in the first degree. Theft in the first degree is a class "C" felony.

2. The theft of property exceeding five hundred one thousand dollars but not exceeding five ten thousand dollars in value or theft of a motor vehicle as defined in chapter 321 not exceeding five ten thousand dollars in value, is theft in the second degree. Theft in the second degree is a class "D" felony. However, for purposes of this subsection, "motor vehicle" does not include a motorized bicycle as defined in section 321.1, subsection 3, paragraph "b".

3. The theft of property exceeding one five hundred dollars but not exceeding five hundred one thousand dollars in value, or the theft of any property not exceeding one five hundred dollars in value by one who has before been twice convicted of theft, is theft in the third degree. Theft in the third degree is an aggravated misdemeanor.

4. The theft of property exceeding fifty one hundred dollars in value but not exceeding one five hundred dollars in value is theft in the fourth degree. Theft in the fourth degree is a serious misdemeanor.

5. The theft of property not exceeding fifty one hundred dollars in value is theft in the fifth degree. Theft in the fifth degree is a simple misdemeanor.

Sec. 2. Section 714.9, Code 1991, is amended to read as follows:

#### 714.9 FRAUDULENT PRACTICE IN THE FIRST DEGREE.

Fraudulent practice in the first degree is a fraudulent practice where the amount of money or value of property involved exceeds five ten thousand dollars.

Fraudulent practice in the first degree is a class "C" felony.

Sec. 3. Section 714.10, Code 1991, is amended to read as follows:

#### 714.10 FRAUDULENT PRACTICE IN THE SECOND DEGREE.

Fraudulent practice in the second degree is the following:

1. A fraudulent practice where the amount of money or value of property or services involved exceeds five hundred one thousand dollars but does not exceed five ten thousand dollars.

2. A fraudulent practice where the amount of money or value of property or services involved does not exceed five hundred one thousand dollars by one who has been convicted of a fraudulent practice twice before.

Fraudulent practice in the second degree is a class "D" felony.