

## INFRINGEMENT OF INDIVIDUAL RIGHTS

### Footnotes

See also chapters 216 and 729A

#### **729.1 Religious test.**

Any violation of section 4, Article I of the Constitution of the State of Iowa is hereby declared to be a simple misdemeanor unless a greater penalty is otherwise provided by law.

[C35, § 13252-f1; C39, § **13252.1**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 735.3; C79, 81, § 729.1]

95 Acts, ch 49, § 26; 2006 Acts, ch 1010, §161

#### **729.2 Evidence.**

If any person, agency, bureau, corporation, or association employed or maintained to obtain, or aid in obtaining, positions for others in the public schools, or positions in any other public institutions in the state, or any individual or official connected with any public school or public institution shall ask, indicate, or transmit orally or in writing the religion or religious affiliations of any person seeking employment in the public schools or any other public institutions, it shall constitute evidence of a violation of section 729.1.

[C35, § 13252-f2; C39, § **13252.2**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 735.4; C79, 81, § 729.2]

#### **729.3 Penalty.**

Any person, agency, bureau, corporation, or association that violates provisions of section 729.2 shall be guilty of a simple misdemeanor.

[C35, § 13252-f3; C39, § **13252.3**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 735.5; C79, 81, § 729.3]

95 Acts, ch 49, §27

#### **729.4 Fair employment practices.**

1. Every person in this state is entitled to the opportunity for employment on equal terms with every other person. A person or employer shall not discriminate in the employment of individuals because of race, religion, color, sex, national origin, or ancestry. However, as to employment an individual must be qualified to perform the services or work required.

2. A labor union or organization or an officer thereof shall not discriminate against any person as to membership therein because of race, religion, color, sex, national origin or ancestry.

3. Any person, employer, labor union or organization or officer of a labor union or organization convicted of a violation of subsection 1 or 2 shall be guilty of a simple misdemeanor.

[C66, 71, 73, 75, 77, § 735.6; C79, 81, § 729.4]

87 Acts, ch 74, §1

#### **729.5 Violation of individual rights penalty.**

1. A person, who acts alone, or who conspires with another person or persons, to injure, oppress, threaten, or intimidate or interfere with any citizen in the free exercise or enjoyment of any right or privilege secured to that person by the constitution or laws of the state of Iowa or by the constitution or laws of the United States, and assembles with one or more persons for the purpose of teaching or being instructed in any technique or means capable of causing property damage, bodily injury or death when the person or persons intend to employ those techniques or means in furtherance of the conspiracy, is on conviction, guilty of a class "D" felony.

A person intimidates or interferes with another person if the act of the person results in any of the following:

a. Physical injury to the other person.

b. Physical damage to or destruction of the other person's property.

c. Communication in a manner, or action in a manner, intended to result in either of the following:

(1) To place the other person in fear of physical contact which will be injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

(2) To place the other person in fear of harm to the other person's property, or harm to the person or property of a third person.

2. This section does not make unlawful the teaching of any technique in self-defense.

3. This section does not make unlawful any activity of any of the following officials or persons:

a. Law enforcement officials of this or any other jurisdiction while engaged in the lawful performance of their official duties.

b. Federal officials required to carry firearms while engaged in the lawful performance of their official duties.

c. Members of the armed forces of the United States or the national guard while engaged in the lawful performance of their official duties.

d. Any conservation commission, law enforcement agency, or any agency licensed to provide security services, or any hunting club, gun club, shooting range, or other organization or entity whose primary purpose is to teach the safe handling or use of firearms, archery equipment, or other weapons or techniques employed in connection with lawful sporting or other lawful activity.

88 Acts, ch 1163, § 1; 90 Acts, ch 1139, § 2; 92 Acts, ch 1157, §7

## **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, 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 7, 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.

7. 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.

92 Acts, ch 1059, § 1; 2007 Acts, ch 10, §183