

CHAPTER 1
GENERAL PROVISIONS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

61—1.1(13) Position and scope.

1.1(1) The head of the department of justice is the attorney general, an official elected for a term of four years. The main office is located on the Second Floor, Hoover State Office Building, Des Moines, Iowa 50319, telephone (515)281-5164.

1.1(2) The attorney general provides legal counsel and direction to the state by participation in cases before the courts where the state has an interest and by formulating written opinions to state officers and county attorneys on questions of state law of public importance.

The Iowa department of justice represents the state and its officers in litigation, issues formal opinions, provides legal advice to state officers and agencies, prosecutes certain criminal cases, enforces state regulatory and consumer laws, represents the state's position in all criminal and juvenile court appeals, provides training to criminal justice professionals, provides victim services, and appears on behalf of consumers in utility rate cases.

1.1(3) At the close of each biennium, the attorney general submits a report to the governor setting forth the condition of the office, opinions rendered and other business transacted which is of public interest or required by law.

61—1.2(13) Administration.

1.2(1) *Appointed officials.* The attorney general is assisted by appointed officials who are responsible to the attorney general.

1.2(2) *Assistants.* Four deputy attorneys general and a director of administrative services assist the attorney general in the management of the office. The executive deputy attorney general coordinates the management of the department, serves as acting attorney general in the attorney general's absence, coordinates the formal opinion writing process in the office, advises the attorney general on public policy issues, and performs such other duties as assigned by the attorney general. The deputy attorney general for public protection supervises the public protection bureau. The deputy attorney general for civil justice supervises the civil justice bureau. The deputy attorney general for criminal justice supervises the criminal justice bureau.

1.2(3) *Administrative services division.* The administrative services division is located on the Second Floor, Hoover State Office Building, Des Moines, Iowa 50319, telephone (515)281-5164. The administrative services division conducts the fiscal, personnel, automation, facilities, communications and policy development activities of the office of the attorney general and department of justice. The division director reports to the attorney general and has the responsibility for carrying out the functions of the division.

61—1.3(13) Organization—bureaus established. The attorney general has established three bureaus to carry out the duties of the attorney general. In addition, the office of consumer advocate is a separate statutory office within the department under the supervision of the attorney general. The bureaus are each directed by a deputy attorney general. Each bureau consists of one or more divisions or other units. The name and a brief summary of matters handled by each bureau, together with its location and telephone number, are as follows:

1.3(1) *Civil justice bureau.* The civil justice bureau is located on the Second Floor, Hoover State Office Building, Des Moines, Iowa 50319, telephone (515)281-5164. The civil justice bureau represents various state departments and agencies and coordinates the department's amicus representation activities in the United States Supreme Court and performs such other duties as may be assigned by the attorney general. The civil justice bureau consists of the following divisions:

a. Regents and human services division. This division is located in the Hoover State Office Building, Des Moines, Iowa 50319, telephone (515)281-8330. The division defends and prosecutes cases relating to

welfare assistance programs, mental health, day care, and juvenile court appeals and advises and represents the director and the department of human services. The division also counsels and represents the board of regents and regents institutions.

b. Revenue division. This division is located in Executive Hills East, 1223 Court Avenue, Des Moines, Iowa 50319, telephone (515)281-5846. It furnishes legal guidance and advice to the department of revenue prepares opinions on revenue matters and represents the director and department in litigation and in administrative proceedings.

c. Transportation division. The location of this division is at the Department of Transportation, General Counsel Division, 800 Lincoln Way, Ames, Iowa 50010, telephone (515)239-1521. The division is responsible for eminent domain litigation, counseling and advising the department of transportation and its staff, construction claims and other contract litigation, tort claims defense, administrative hearings and judicial review proceedings.

d. Special litigation division. The special litigation division is located on the Second Floor, Hoover State Office Building, Des Moines, Iowa 50319, telephone (515)281-5881. The division is responsible for the investigation and defense of tort claims against the state, cases arising from the institutions operated by the department of corrections, advice to that department and such other special litigation matters as assigned by the attorney general.

1.3(2) Public protection bureau. The public protection bureau is located on the Second Floor, Hoover State Office Building, Des Moines, Iowa 50319, telephone (515)281-3349. The public protection bureau consists of those divisions within the office providing direct public protection activities in the civil law area and representing professional licensing agencies of state government in regulating activities in order to protect the public. The divisions within the bureau are as follows:

a. Environmental law division. This division is located in Executive Hills East, 1223 Court Avenue, Des Moines, Iowa 50319, telephone (515)281-5351. This division represents state agencies in the protection of natural resources and pollution control. The division furnishes legal representation and advice to the department of natural resources, the agriculture and land stewardship department and related agencies. It initiates and conducts litigation involving environmental, conservation and agricultural matters.

b. Consumer protection division. This division is located on the Second Floor, Hoover State Office Building, Des Moines, Iowa 50319, telephone (515)281-5926. It handles complaints regarding violations of the Iowa consumer fraud Act and the Iowa consumer credit code. The division staff warns the public of questionable practices affecting consumers and farmers and prosecutes lawsuits to prevent or halt illegal sales and business practices. Citizens are encouraged to file their complaints in writing but may also file by telephone or in person at the consumer protection division office.

c. Licensing and administrative law division. This division is located on the Second Floor, Hoover State Office Building, Des Moines, Iowa 50319, telephone (515)281-8760. The departments of education, public safety, public health, general services, auditor's office, treasurer of state, secretary of state, the department of commerce licensing boards, division of banking, division of savings and loan associations, division of credit unions, insurance division, the Iowa college student aid commission, department of health licensing boards, and other professional licensing boards and agencies not otherwise represented by another division of the attorney general's office are provided legal counsel by this division. The division prosecutes professional licensing disciplinary cases on behalf of the public.

d. Underground storage tank unit. This unit is located in Executive Hills East, 1223 Court Avenue, Des Moines, Iowa 50319, telephone (515)281-5351. This unit is responsible for the underground storage tank fund litigation.

1.3(3) Criminal justice bureau. This bureau is located on the Second Floor, Hoover State Office Building, Des Moines, Iowa 50319, telephone (515)281-3349. The criminal justice bureau includes those divisions and areas of activity within the office in the criminal law field. The principal responsibility for the development of the attorney general's positions on criminal justice policy issues is within this bureau. The divisions and units within the bureau are as follows:

a. Area prosecutions division. This division is located on the Second Floor, Hoover State Office Building, Des Moines, Iowa 50319, telephone (515)281-3648. The division provides experienced, full-time prosecutors upon request of a county attorney when additional assistance is required or when the county

attorney experiences a conflict of interest. The division provides services from informal advice to the complete undertaking of complex felony cases.

b. Crime victim assistance division. The crime victim assistance division of the criminal justice bureau is located in the Old Historical Building, Des Moines, Iowa 50319, telephone (515)281-5044. This division is responsible for various crime victim assistance programs.

c. Criminal appeals division. This division is located on the Second Floor, Hoover State Office Building, Des Moines, Iowa 50319, telephone (515)281-5976. The responsibilities of the criminal appeals division are to represent the state in appeals in criminal cases; certiorari proceedings related to criminal cases; appeals in postconviction relief cases under Iowa Code chapter 822; applications for discretionary review; and federal habeas corpus cases. This division advises the governor's office on extradition matters and provides advice to county attorneys in criminal matters.

d. Prosecuting attorneys training coordinator. This division of the department of justice is located in the Old Historical Building, Des Moines, Iowa 50319, telephone (515)281-5428. It provides reference materials, support services and continuing legal education for all prosecuting attorneys in the state.

e. Civil rights. The civil rights unit is a separate unit within the criminal justice bureau. The attorneys assigned to this unit are located in the Colony Building, Des Moines, Iowa 50319, telephone (515)281-4121. It furnishes legal advice to the civil rights commission and its staff, prosecutes civil rights cases, and represents the commission in cases in which it is a party or is interested.

This rule is intended to implement Iowa Code section 13.2.

61—1.4(13,22) Public information.

1.4(1) Complaints, inquiries and requests for information may be referred in writing or in person to the office of the attorney general or directly to the appropriate division of the attorney general's office which handles the subject matter at hand. Except in certain consumer areas, the office does not have the authority to provide legal advice to the public but may provide information or referral as appropriate.

1.4(2) Formal opinions of general interest and summaries of letter opinions are published biennially. Only elected or appointed state officers, legislators, and county attorneys may request the attorney general to issue an opinion. Copies of opinions are available to the public. An index to all opinions is maintained in the office; this index is divided according to subject matter and by appropriate Iowa Code sections. Summaries of opinions are published monthly in the Iowa Administrative Bulletin. Copies of unpublished opinions may be obtained from the administrative assistant to the executive deputy attorney general, telephone (515)281-5166.

1.4(3) Docket entries pertaining to court cases handled by attorneys assigned to the attorney general's office are indexed by case title, maintained in each division and are available for public inspection in the attorney general's office.

1.4(4) Copies of the attorney general's biennium reports to the governor are maintained by the attorney general's office and are available for public inspection.

1.4(5) Copies can be made by the public at cost as determined and posted by the director of administrative services. The cost of postage and of other services provided in connection with the request may be charged as appropriate.

1.4(6) The executive deputy attorney general is delegated the responsibility for implementing the requirements of Iowa Code chapter 22 concerning records in the possession of the attorney general's office.

61—Chapter 2 also governs access to records of this office.

This rule is intended to implement Iowa Code chapter 13 and section 22.3.

61—1.5(13) Opinions.

1.5(1) Written opinions are provided upon request on questions of law submitted by the legislature or by any state officer, elective or appointive. The questions must be of a public nature and relate to the duties of the requesting officer. Written opinions may also be issued to county attorneys when appropriate for their supervision in matters pertaining to the duties of their offices. The attorney general does not issue opinions to other persons.

1.5(2) Opinion requests are to be addressed to the attorney general and contain sufficient information to determine the precise legal question presented. The request should also indicate if the question is

pending in litigation or before any agency of state, local, or federal government, if the requester has a personal interest in the question, and any other matter which would be relevant to resolution of the request.

1.5(3) The attorney general may decline to issue an opinion where appropriate, as in the following examples:

a. The matter is pending in litigation or litigation is imminent, or other formal proceeding provided by law for resolution of the issue and issuance of the opinion could interfere with the authority of the other forum.

b. A conflict of interest exists on the part of the attorney general or the requester.

c. The question calls for resolution of a question of fact or policy rather than determination of a question of law, or the legal question is dependent upon the facts of specific cases.

d. The request does not involve a concise question of state law of general significance.

e. The question is likely to be rendered moot, as in the case of pending legislation.

1.5(4) The attorney general may also determine that a question can more appropriately be addressed by other means and so advise the requester. Alternative means for resolution of questions which are frequently appropriate include advice from assistant attorneys general and existing administrative procedures available from state agencies or other branches of government.

1.5(5) Official opinions may be formal opinions, which are published in full biennially, or letter opinions, summaries of which are published. Formal opinions are generally limited to those which resolve an important, previously undecided legal issue which is of broad public interest or of significant precedential effect. Both formal and letter opinions are official opinions of the attorney general. In contrast, letters of advice from assistant attorneys general represent the legal advice of an attorney and are not official opinions of the attorney general. The function of an official opinion is to decide a question of state law; the function of letters of advice is to provide legal guidance to agencies or to provide information. Requesters are encouraged to contact the appropriate division or the deputy attorney general for opinions to discuss whether an opinion request would be the preferred means for handling a specific question.

1.5(6) Questions and comments about the opinion process should be addressed to the executive deputy attorney general. Questions about the status of a specific opinion request or requests for copies of opinions should be addressed to the administrative assistant to that executive deputy attorney general, telephone (515)281-5166.

61—1.6(13) Forms.

1.6(1) Complaints to the consumer protection division may be made by letter or by completion of a Consumer Protection Complaint Form which asks for the name, address, and telephone numbers of the complaining party and the person against whom the complaint is brought, the product or service involved, date of purchase or contract, and amount of purchase or contract. The form also asks the complainant to describe any prior contacts with the company, to state whether an attorney has been contacted, to state what relief is sought to resolve the complaint, and to provide a summary of the complaint.

1.6(2) Complaints to the farm division may be made by letter or by completion of a Farm Division Complaint Form which asks for the name, address, and telephone numbers of the complaining party and the person against whom the complaint is brought, the product or service involved, date of purchase or contract, and the amount of the purchase or contract. The form also asks the complainant to describe any prior contacts with the company, to state whether an attorney has been contacted, to state what relief is sought to resolve the complaint and to provide a summary of the complaint.

The division also has forms which address specific types of complaints including feeder cattle, swine, herbicides and pesticides, and steel buildings.

1.6(3) Copies of the complaint forms may be obtained from the Consumer Protection Division or the Farm Division of the Office of the Attorney General, Hoover State Office Building, 1300 East Walnut, Des Moines, Iowa 50319, or by calling (515)281-5926 or 281-6634.

These rules are intended to implement Iowa Code sections 7A.6, 7E.2, 22.3 and chapter 13.

[Filed 11/23/77, Notice 10/19/77—published 12/14/77, effective 1/18/78]

[Filed 12/14/84, Notice 11/7/84—published 1/2/85, effective 2/6/85]

[Filed 6/26/86, Notice 5/21/86—published 7/16/86, effective 8/20/86]

[Filed 4/28/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]
[Filed 8/30/91, Notice 6/12/91—published 10/2/91, effective 11/6/91]
[Filed 5/11/94, Notice 11/10/93—published 6/8/94, effective 7/13/94]