S-3093

1   Amend Senate File 589 as follows:

2   1. By striking page 1, line 34, through page 2, line 4, and
3 inserting <has proven all of the following:

4   *a.* More than eight years have passed since the date of the
5 conviction.

6   *b.* The defendant has no pending criminal charges.

7   *c.* The defendant has not previously been granted two
8 deferred judgments.

9   *d.* The defendant has paid all court costs, fees, fines,
10 restitution, and any other financial obligations ordered by the
11 court or assessed by the clerk of the district court.>

12   2. Page 3, by striking lines 5 through 12.

13   3. Page 4, line 1, after <ROBBERY> by inserting <——
14 AGGRAVATED THEFT>

15   4. Page 4, after line 7 by inserting:

16   <Sec. ___. NEW SECTION. **711.3B Aggravated theft.**

17   1. A person commits aggravated theft when the person commits
18 an assault as defined in section 708.1, subsection 2, paragraph
19 *"a"*, that is punishable as a simple misdemeanor under section
20 708.2, subsection 6, after the person has removed or attempted
21 to remove property not exceeding three hundred dollars in
22 value which has not been purchased from a store or mercantile
23 establishment, or has concealed such property of the store or
24 mercantile establishment, either on the premises or outside the
25 premises of the store or mercantile establishment.

26   2. *a.* A person who commits aggravated theft is guilty of an
27 aggravated misdemeanor.

28   *b.* A person who commits aggravated theft, and who has
29 previously been convicted of an aggravated theft, robbery in
30 the first degree in violation of section 711.2, robbery in the
31 second degree in violation of section 711.3, or extortion in
32 violation of section 711.4, is guilty of a class "D" felony.

33   3. In determining if a violation is a class "D" felony
34 offense the following shall apply:

35   *a.* A deferred judgment entered pursuant to section 907.3 for

1 a violation of any offense specified in subsection 2 shall be
2 counted as a previous offense.
3   *b.* A conviction or the equivalent of a deferred judgment for
4 a violation in any other states under statutes substantially
5 corresponding to an offense specified in subsection 2 shall be
6 counted as a previous offense. The courts shall judicially
7 notice the statutes of other states which define offenses
8 substantially equivalent to the offenses specified in this
9 section and can therefore be considered corresponding statutes.
10   4. Aggravated theft is not an included offense of robbery
11 in the first or second degree.
12   Sec. ___. Section 808.12, subsections 1 and 3, Code 2019,
13 are amended to read as follows:
14   1. Persons concealing property as set forth in section
15 ~~714.3A~~ 711.3B or 714.5, may be detained and searched by a peace
16 officer, person employed in a facility containing library
17 materials, merchant, or merchant's employee, provided that
18 the detention is for a reasonable length of time and that the
19 search is conducted in a reasonable manner by a person of the
20 same sex and according to subsection 2 of this section.
21   3. The detention or search under this section by a peace
22 officer, person employed in a facility containing library
23 materials, merchant, or merchant's employee does not render the
24 person liable, in a criminal or civil action, for false arrest
25 or false imprisonment provided the person conducting the search
26 or detention had reasonable grounds to believe the person
27 detained or searched had concealed or was attempting to conceal
28 property as set forth in section ~~714.3A~~ 711.3B or 714.5.>
29   5. Page 4, by striking line 31 and inserting:
30   <Sec. ___. REPEAL. Sections 711.3A, 711.5, and 714.3A, Code
31 2019, are repealed.>
32   6. Page 6, by striking lines 5 through 15.
33   7. Page 10, by striking line 1 and inserting <FRAUD AND
34 FORGERY REVISIONS>
35   8. Page 10, by striking lines 2 through 19.

1   9. Page 12, by striking line 8 and inserting <or motion, in
 2 any Iowa court. The court>
 3   10. Page 13, by striking lines 19 through 24 and inserting:
 4   <Sec. ___. Section 822.3, Code 2019, is amended to read as
 5 follows:
 6   **822.3 How to commence proceeding —— limitation.**
 7   A proceeding is commenced by filing an application verified
 8 by the applicant with the clerk of the district court in
 9 which the conviction or sentence took place. However, if the
10 applicant is seeking relief under section 822.2, subsection 1,
11 paragraph *"f"*, the application shall be filed with the clerk
12 of the district court of the county in which the applicant
13 is being confined within ninety days from the date the
14 disciplinary decision is final. All other applications must
15 be filed within three years from the date the conviction or
16 decision is final or, in the event of an appeal, from the date
17 the writ of procedendo is issued. However, this limitation
18 does not apply to a ground of fact or law that could not have
19 been raised within the applicable time period. An allegation
20 of ineffective assistance of counsel in a prior case under this
21 chapter shall not toll or extend the limitation periods in this
22 section nor shall such claim relate back to a prior filing to
23 avoid the application of the limitation periods. Facts within
24 the personal knowledge of the applicant and the authenticity
25 of all documents and exhibits included in or attached to the
26 application must be sworn to affirmatively as true and correct.
27 The supreme court may prescribe the form of the application and
28 verification. The clerk shall docket the application upon its
29 receipt and promptly bring it to the attention of the court
30 and deliver a copy to the county attorney and the attorney
31 general.>
32   11. Page 13, lines 30 and 31, by striking <district or
33 appellate court. The district or appellate> and inserting
34 <court. The>
35   12. By striking page 16, line 25, through page 18, line 21.

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1   13. By renumbering, redesignating, and correcting internal
2 references as necessary.

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DAN DAWSON